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STATE OF MICHIGAN
IN THE 14TH CIRCUIT COURT
FOR THE COUNTY OF MUSKEGON

* * *

PEOPLE OF THE STATE
OF MICHIGAN,

Plaintiff

File #14-64458-FC

V

DEREK JAMES RAINBOLT,

Defendant.



ORIGINAL

JURY TRIAL - DAY 1

BEFORE THE HONORABLE WILLIAM C. MARIETTI,

Muskegon, Michigan, on Tuesday, October 7, 2014.

APPEARANCES:

For the Plaintiff: Christina E. Johnson

For the Defendant: Paula Baker

CALENDARED

2015 FEB 13 P 2:53

NANCY A. WATERS
MUSKEGON COUNTY CLERK
FILED

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MILLS COURT REPORTING
1615 Sunset
N Muskegon, MI 49445
231-744-6823
BOBBIE SPRINGER, CER-3408

R E C E I V E D
SEP 16 2015

COURT OF APPEALS
THIRD DISTRICT

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None.

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(Videotape, 10-07-14; 10:28:49)

1 THE COURT: Well, good morning, ladies and
2 gentlemen, and welcome to the 14th Circuit Court. You're
3 here for assisting us in the case of The People of the
4 State of Michigan versus Derek Rainbolt, and I'll tell you
5 more about what the case is about here shortly. I know
6 that this jury service is probably new for most of you.
7 How many of you have been on a jury before? Okay, not
8 many, you know, maybe a dozen of you and that's it. That
9 is creating a situation here where I'm going to have to go
10 over a lot of details here about what to expect, so for
11 the 12 or so of you that have already been jurors, I'm
12 sorry, probably bore you a little bit but, you know,
13 you've got another 60, 70 people here who have never had
14 to be involved in the jury process, so I want to give all
15 of you as much as I can an opportunity to understand
16 what's going to be expected of you and what you can expect
17 of us here.

18 Because jury duty, it's one of the most serious
19 duties that you can perform as a member of our free
20 society here. Our system of self-government in America
21 cannot exist without a jury. That's one of the
22 fundamental parts of our system of government that
23 distinguishes us from many other countries is the jury
24 system, and so you're an important part of this Court.

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1 The right to a jury trial, it's an ancient
2 tradition. It's a part of our heritage that a person that
3 is accused of a crime as well as the State is entitled to
4 have a jury decide this case and not just one person but a
5 jury of 12 impartial persons selected from the local
6 community to make this decision. So jurors are expected
7 to be as free as humanly possible of any bias or prejudice
8 or sympathy for one side or the other because each side in
9 a trial is entitled to have jurors who keep open minds and
10 agree to keep their minds open until it comes time to
11 actually decide the case.

12 Now this trial, as with any trial that we do
13 here in the circuit court, is going to begin with the
14 selection of a jury, and that selection process has a
15 technical, legal name. It's called the voir dire. And
16 during this voir dire you've already submitted some basic
17 questionnaires. There may be some additional questions we
18 would want to ask you, either the attorneys or myself, and
19 these questions really are meant to find out if you know
20 anything about this particular case, and we also want to
21 know if you have any personal experiences or opinions that
22 might make it difficult for you to decide this case and,
23 of course, we also want to know if you're acquainted with
24 anyone who may be involved in the case such as the

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1 witnesses or the attorneys or any of the parties in the
2 case.

3 And one or more of those things might be a
4 reason why it would not be appropriate for you to be a
5 juror on this case, although you certainly would be
6 appropriate to be a juror on any other case that we have.
7 And so these questions may probe into your attitudes or
8 beliefs or experiences. They're not meant to be an
9 unreasonable prying into your private life. The law
10 requires that we have that information so that a fair and
11 impartial jury can be selected.

12 Now if you do not hear or understand a question
13 that is asked, please let us know. Raise your hand or
14 something along those lines and we will elevate the volume
15 or rephrase the question to make it more understandable
16 for you. However, if you do hear the question and you do
17 understand the question, then we would expect that you
18 answer it truthfully and completely, and don't hesitate to
19 speak freely about anything that you think we should know
20 as it relates to your ability to be a juror in this case.

21 Now during this voir dire or selection process
22 some of you may be excused. Do I have everybody's
23 attention now? It's possible you may be excused from the
24 process here, and that can come about in a couple ways.

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1 You'll hear me ask the attorneys at different points in
2 this process do you have any juror that you wish to excuse
3 for cause. And if the attorney does, she will simply
4 announce I'd like to excuse juror number, whatever your
5 number is, number 15 and then she'll give a reason for
6 doing that. I want to -- for example, if one of you
7 happened to be the brother-in-law of the Defendant in the
8 case, well, obviously, you know, that's going to be
9 difficult for you to be fair and impartial so she would
10 say I want to excuse number 15 because he's related to a
11 party in the case; give a reason for it; number 15 we'd
12 say thank you, you can certainly be a juror on another
13 case but it wouldn't be appropriate for you to be a juror
14 on this case.

15 Now the other way you can be excused is through
16 what is called a peremptory challenge, and again you'll
17 hear me ask the attorneys at various points do you have
18 any peremptory challenges, and if an attorney does have a
19 peremptory challenge, she will simply identify the number
20 of the juror that she wants excused and no reason will be
21 given. I wish to excuse juror number 15; no reason given.
22 Now if you happen to be somebody who is excused under one
23 of these peremptory challenges without a reason being
24 given, there's no use speculating as to why you were

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1 excused. I mean, there's no need to feel ashamed or upset
2 or, you know, rejected. There's no need to stand up and
3 shout hallelujah either. It's just a process that we go
4 through to arrive at what the parties are comfortable with
5 as a fair and impartial jury.

6 Now at this point I'm going to ask that all of
7 you please rise and the bailiff is going to administer a
8 oath to you to answer these questions. If anybody has any
9 reservations about taking an oath, you can simply affirm
10 that you'll abide by the terms of it, so if you'd like to
11 administer the oath now.

12 THE CLERK: Okay. Please rise and raise your
13 right hand. Do you solemnly swear or affirm that you will
14 truthfully and completely answer all questions concerning
15 your qualifications to serve as jurors in this case so
16 help you God?

17 JURORS: I do.

18 THE COURT: Okay, thank you. I probably ought to
19 introduce myself before we go any further. My name is
20 Judge William C. Marietti. I am the chief judge of this
21 circuit court and I'll be presiding over this trial. When
22 I say I'm the chief judge, that means I'm responsible for
23 all the administration of the courts here, and so
24 sometimes I have to be involved in administration matters.

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1 As a matter of fact, that's why you were waiting in here
2 for about five to ten minutes for me to come in here. I
3 wasn't back there watching television or, you know, having
4 a good time. I had a meeting with another judge over an
5 administrative matter and I'm going to have to do that
6 unfortunately at various times throughout this trial.
7 That's just part of my job and there's nothing I can do
8 about it. Believe me, I wish I wasn't the chief judge,
9 but I am, so that's the way it works.

10 So in any event, this is a criminal case, and
11 the name of the case is The People of the State of
12 Michigan versus Derek Rainbolt, and the charge that has
13 been made against the Defendant will be read to you later,
14 but I do want to at this time let you know that The People
15 of the State of Michigan are represented by the
16 prosecuting attorney's office here, and in this case
17 assistant prosecutor Christina Johnson will be
18 representing The People of the State of Michigan.
19 Ms. Johnson, if you'd like to rise and introduce yourself
20 and any witnesses you intend to call, please.

21 MS. JOHNSON: Thank you, your Honor. Good
22 morning, everyone. As the Judge said, my name is
23 Christina Johnson and I was appointed by your elected
24 prosecutor, D. J. Hilson to represent the People in this

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1 matter. Also sitting with me is Erica Peabody. She is an
2 intern with our office and is observing and may be
3 assisting me at certain points in the trial. I also
4 expect Officer Hertel to join us momentarily. She is the
5 lead investigator on this case. She is with Fruitport and
6 Muskegon Township Police Departments. Some other
7 witnesses you will hear from are Alyssa Ward, Andrea
8 Tindall, Jennifer Houston, Tim Houston, Barb Cross, Dr.
9 Debra Simms, Kim Watson, and Officer Vandommelen.

10 THE COURT: Okay, thank you, Ms. Johnson. And
11 the Defendant in this case is represented by Attorney
12 Paula Baker from the Muskegon County Public Defender's
13 Office. Ms. Baker, if you'd like to rise and introduce
14 yourself, your client, and anybody else that you think has
15 to be introduced here, go ahead.

16 MS. BAKER: Thank you, your Honor. Good morning,
17 ladies and gentlemen. My client here is Derek Rainbolt
18 and he will be seated next to me during the trial.
19 Additionally, I have an intern, Nicole Rapp, who might be
20 helping us throughout this case so you might see her face
21 coming in and out of the courtroom. The witnesses that we
22 expect to call will include Sarah Beckley, Michelle
23 Beckley, Adam Rice, Michelle Rivera, Bonnie Hammond, Mark
24 VanHook, Brett Whalen, Penny Vondering, Nick Roseboom, and
25 I think that's it for our witnesses. Thank you.

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1 THE COURT: Okay, thank you, Ms. Baker. Now if
2 any of you are acquainted with any of those people who
3 have been announced here, we're gonna want to know that if
4 you're actually called to be a juror in the case, and that
5 might be a reason why you shouldn't be on the case but it
6 may be something that's perfectly innocuous and not be an
7 impediment to you being a juror in the case.

8 I'm advised by these ladies who are going to be
9 trying the case that this case should conclude Thursday or
10 Friday; is that a fair statement? Just to let -- I'm just
11 letting you know that. Now that's an estimate. It could
12 be done today, it could be done tomorrow, but that's our
13 best estimate and you'll have to keep that in mind so that
14 if any of you have, you know, open heart surgery scheduled
15 tomorrow morning, we need to know that because you're not
16 gonna be able to be available for us then, so we need to
17 know that. But, in any event, that's our best estimate of
18 about how long this trial should take to conclude.

19 Now this is a criminal case and so the paper
20 that is used to charge or present the charge in a criminal
21 case is called an Information, and the Information in this
22 case should be read to all of you and I'm going to do that
23 now, so if you'll bear with me I'm going to read it to
24 you. The Information in this case charges as follows:
25 That between August 1 of 2010 and August 1 of 2012 Derek

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1 James Rainbolt at 4759 Airline Highway in Fruitport
2 Township in the County of Muskegon and State of Michigan
3 did engage in sexual penetration, penis-vagina with Alyssa
4 Ward, the victim being at least 13 but less than 15 years
5 of age and the Defendant was related to the victim by
6 blood or affinity to the fourth degree. That is known as
7 criminal sexual conduct in the first degree, and Mr.
8 Rainbolt has pled not guilty to that charge, and you
9 should clearly understand that the Information that I just
10 read to you is not evidence. We have to read an
11 Information in every trial so the defendant and the jurors
12 know what the charges are, and you shouldn't think that
13 it's evidence of Mr. Rainbolt's guilt simply because he's
14 been charged or that there's an Information that has been
15 read to you. And that's because basic to our system of
16 criminal justice in America is the principle that a person
17 that is accused of a crime is presumed to be innocent and
18 that presumption must start at the beginning of this trial
19 for you and that presumption continues throughout the
20 trial and entitles Mr. Rainbolt to a verdict of not guilty
21 unless you are satisfied beyond a reasonable doubt that he
22 is guilty.

23 Now this charge of criminal sexual conduct in
24 the first degree, as with any criminal charge, is made up
25 of parts or elements and the prosecutor has to prove each

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1 element of the charge beyond a reasonable doubt. Mr.
2 Rainbolt, as a defendant, is not required to prove his
3 innocence or to do anything at a trial, and if you find
4 that the prosecutor has not proved each element of the
5 charge beyond a reasonable doubt, then you must find him
6 not guilty of that charge.

7 Now I've used that term reasonable doubt, and
8 when we say a reasonable doubt in the law, we're talking
9 about a reasonable, honest doubt, a fair doubt growing out
10 of the evidence or lack of evidence. It's not merely an
11 imaginary doubt, it's not a possible doubt; it's a doubt
12 that's based upon reason and common sense. A reasonable
13 doubt in the law is just that, it's a doubt that's
14 reasonable after a careful and considered examination of
15 all of the facts and circumstances that you find to exist
16 in the case.

17 Now I think that's all you need to know at this
18 time to be able to intelligently respond to any questions
19 that are asked of you as it relates to your ability to be
20 a juror, so the next thing we're going to is we're going
21 to draw the first 13 jurors who are going to be seated in
22 the jury box, and as I always do, I want to hasten to add
23 I didn't have anything to do with who these people are and
24 neither did he; okay? This is all done by a computer, so
25 we're not picking on anybody. The computer just gave us

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1 the names and that's the way we gotta call 'em, folks;
2 okay? So if your name is called, the bailiff will show
3 you where you should have a seat up here and then when we
4 have 13 we'll commence the questioning.

5 THE CLERK: Carrie Bose, David Pugh, Steven Six,
6 Joanne Metcalf, Shirley Coleman, Lindsey Osborn, Carrie
7 Shanty, Martin Klassen, Samantha Anthony, Julianna Denio,
8 Ann Walters, Sharon Booth, Robert Sturgeon.

9 THE COURT: Okay. Now for those of you who are
10 still out there, all with big smiles on your faces right
11 now thinking you've dodged a bullet, you have not; okay?
12 There is a possibility that any one of these folks might
13 be excused under either a challenge for cause or one of
14 those peremptory challenges, and if they are, then we go
15 back to the list and we pull another one of you from the
16 audience and have you have a seat up here. And we go
17 through that process until there's no more jurors that
18 need to be excused. So the reason I bring that to your
19 attention is, as I said, the attorneys here may have some
20 questions for some of these folks and please listen to the
21 questions and think about what your answer might be if
22 you're called to replace somebody, and the reason I
23 suggest you do that is then that avoids us having to
24 repeat all these questions every time a new person comes
25 up here. So if you just pay attention and think about

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1 what your answer might be, then if you get called to
2 replace somebody, instead of going through all the
3 questions again, I'll simply ask you have you heard
4 everything that the other jurors have been asked and is
5 there anything that was asked that relates particularly to
6 your ability to be a juror, and then we can cut through
7 this a little quicker. And so for those of you who are
8 not going to be on this case you can get out of there, so
9 I think you all appreciate that, so everybody has to
10 cooperate to get there.

11 So the first thing I want to ask you folks, is
12 there anybody that is seated up here now who is acquainted
13 with anyone who was introduced in the case, either the
14 witnesses or the attorneys or anybody like that? No?
15 Okay, great. That's pretty amazing. Usually we have some
16 people that are acquainted, but that's wonderful. Ms.
17 Johnson, if you have any questions you want to ask the
18 jurors, you may at this time.

19 MS. JOHNSON: Thank you, your Honor. Good
20 morning, everyone.

21 JURORS: Good morning.

22 MS. JOHNSON: I want to thank you all for your
23 service today, except that my pen just dropped. I want to
24 thank you all for your service today. This process, this
25 voir dire process, it's my experience that it works best

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1 for all of us if it's a conversation, if you all
2 participate with me, you know, one-word answers sometimes
3 may cut it, but for other conversations we're going to
4 need some more, and listen to what your fellow jurors or
5 potential jurors are saying. And if you have something to
6 add to that conversation, a lot of times I'll ask people
7 agree or disagree to raise their hand and I'll call on
8 you, but if there's something you want to volunteer or add
9 to the conversation, please bring it to my attention.

10 I do want to warn you I know a lot of attorneys
11 get up here and say I don't mean to pry when I'm asking
12 these questions. I'm of the belief that sometimes prying
13 is necessary; okay? And I want to warn you. You've heard
14 the charges in this case. We're talking about a child
15 sexual abuse case, so my questions may get personal with
16 you at some times. I apologize for that in advance, but I
17 do promise you that every question I'm asking I have a
18 reason to ask it.

19 MS. JUROR: Speak up.

20 THE COURT: Okay. Can't hear?

21 SEVERAL JURORS: No.

22 THE COURT: Okay. You're going to have to speak
23 up. Is that part of the PA system, that microphone?

24 THE CLERK: The microphone is. You have to stand
25 in front of it for it to --

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1 THE COURT: Okay, right. So you'll have to stick
2 close to that, Ms. Johnson, so everybody can hear you.
3 Can you hear me all right?

4 SEVERAL JURORS: Yes.

5 THE COURT: Okay, all right. Go ahead, Ms.
6 Johnson.

7 MS. JOHNSON: I apologize. I have trouble
8 staying tied to a podium at times, but I'll try to do so
9 so the microphone picks me up. I was just explaining to
10 the jurors up here in the box that I apologize if I'm
11 prying. A lot of attorneys say they don't mean to pry
12 during this questioning, but I'm of the belief that at
13 times it's necessary. With the subject matter of this
14 case, there may be some personal questions and I'm
15 apologizing in advance if I ask you anything, but I do
16 promise that every question I ask has a reason for why I'm
17 asking it.

18 The purpose of voir dire is also to make sure
19 that we find appropriate jurors that are suited for this
20 case. You may ask what do you mean by that? You know,
21 people can be fair and impartial, that's what we're
22 looking for. Well, based on subject matter, it may be
23 more difficult to be fair and impartial on certain cases.
24 To give you an example of what I'm talking about, I
25 personally am an animal lover. I grew up on a farm, I

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1 adopt stray dogs, I volunteer at shelters. If a case were
2 to come before me that was an animal cruelty case, I'm not
3 sure I could sit as a juror on that and set aside my
4 personal feelings to sit fairly and impartially. So a lot
5 of the questions I'm going to be asking you today are to
6 find out your personal feelings and see if there's
7 anything that may cause you a bias one way or the other.

8 And I guess I'm going to jump right in with some
9 difficult questions. We're talking about a criminal
10 sexual abuse case, and the Defendant is accused of raping
11 his daughter when she was 13 or 14 years old, when she was
12 in 8th grade. Is there anybody who just hearing that --
13 and let me preface this by saying I don't think anybody
14 wants to sit and watch and listen to that, but is there
15 anybody who says I'm not going to be able to sit and
16 listen to that and judge that evidence? Okay. Mr. Powe
17 -- Pugh; sorry. What's your --

18 JUROR PUGH: This I don't want -- I don't want to
19 deal with that. I don't like him already.

20 MS. JOHNSON: Okay. You said you don't like him
21 already?

22 JUROR PUGH: Uh-huh.

23 MS. JOHNSON: Okay. As he's sitting there, do
24 you think he must have done something wrong?

25 JUROR PUGH: No, just -- I've known people that's

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1 done that, not friends of mine, but I've known people
2 that's done this and I don't want -- I don't want to think
3 about it, you know. It's not on my mind.

4 MS. JOHNSON: You say you know people who have
5 done it. I'm not asking for names, but relationship-wise,
6 who are these people that you know?

7 JUROR PUGH: These are people I don't know who
8 they were. This is people I talk to.

9 MS. JOHNSON: Do you know people who have been
10 victims of it or people who have been accused of it or
11 perpetrators of it?

12 JUROR PUGH: I had a girlfriend a victim of it.
13 Her daughter.

14 MS. JOHNSON: Her daughter. And did you speak
15 with your girlfriend and her daughter about what happened?

16 JUROR PUGH: Oh, yeah.

17 MS. JOHNSON: Okay. Do you think you can set
18 aside those feelings and listen to the evidence in this
19 case?

20 JUROR PUGH: Yeah.

21 MS. JOHNSON: How old was her daughter when it
22 happened?

23 JUROR PUGH: Six, and her stepfather molested
24 her. Nothing come of that.

25 MS. JOHNSON: And how long after it happened were

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1 you with the mother?

2 JUROR PUGH: Two years.

3 MS. JOHNSON: Okay. And, again, you think you
4 can set that aside and judge the facts in this case?

5 JUROR PUGH: Well, I'll put it -- I don't think
6 about it anymore, you know. It's over with. It's in the
7 history.

8 MS. JOHNSON: Let me ask you without getting into
9 too much detail about her case, do you think all victims
10 would react the exact same way?

11 JUROR PUGH: I don't know how to answer that.

12 MS. JOHNSON: Okay. If the victim in this case
13 were to get up and you were to see something, a way that
14 she reacted differently than your girlfriend's child
15 reacted, would that to you mean that she's lying or would
16 you sit with an open mind to listen to her?

17 JUROR PUGH: I'd sit with an open mind to listen
18 to her.

19 MS. JOHNSON: Okay. Did I see some other hands
20 raised? Mr. Sturgeon?

21 JUROR STURGEON: Yes. It happened to my best
22 friend's son when he was 12.

23 MS. JOHNSON: How long ago was that?

24 JUROR STURGEON: Nine years, ten years?

25 MS. JOHNSON: Were you friends with him at the

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1 time?

2 JUROR STURGEON: Yes, I've known the kid since he
3 was probably 2.

4 MS. JOHNSON: How did you find out that it had
5 happened?

6 JUROR STURGEON: My buddy actually called me to
7 talk to him about it.

8 MS. JOHNSON: How did he find out?

9 JUROR STURGEON: His son told him that -- he was
10 going through a divorce with his wife and he was with his
11 mother and one of the -- some boy babysitting him got a
12 hold of him.

13 MS. JOHNSON: Did he tell right away after it
14 happened?

15 JUROR STURGEON: I don't exactly recall.

16 MS. JOHNSON: Did you talk to this boy about it?

17 JUROR STURGEON: No.

18 MS. JOHNSON: Okay. Would you be able to set
19 aside what you know about that case and listen to the
20 evidence and the testimony in this case and judge it
21 fairly and impartially or would that be on your mind while
22 you were listening to evidence?

23 JUROR STURGEON: I think it would be on my mind.

24 MS. JOHNSON: Do you think you'd be able to set
25 it aside?

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1 JUROR STURGEON: I can't even watch movies that
2 would go to that.

3 MS. JOHNSON: Okay. Were there any other hands?
4 All right, Ms. Shanty?

5 JUROR SHANTY: Yep. A good friend I work with,
6 it happened to her daughter.

7 MS. JOHNSON: When did that happen?

8 JUROR SHANTY: Probably three years ago.

9 MS. JOHNSON: Okay. Did she talk to you about
10 the abuse, your friend?

11 JUROR SHANTY: The mother or the daughter?

12 MS. JOHNSON: Well, let's start first with the
13 mother.

14 JUROR SHANTY: Yes, mother did, yeah.

15 MS. JOHNSON: Okay. And was anybody ever
16 arrested or brought to trial for that?

17 JUROR SHANTY: (Indistinguishable.)

18 MS. JOHNSON: Was that here locally?

19 JUROR SHANTY: Yes.

20 MS. JOHNSON: Okay. Did she talk to you about
21 the court process at all?

22 JUROR SHANTY: Yeah.

23 MS. JOHNSON: Okay. Without saying, I just want
24 a yes or no to this, do you know what the punishment is
25 for this?

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1 JUROR SHANTY: No, I don't. I know it's a second
2 offense though.

3 MS. JOHNSON: Okay, I'm going to stop you there.
4 Okay. On your friend's person it was a second offense?

5 JUROR SHANTY: The dad.

6 MS. JOHNSON: That has nothing to do with this
7 case?

8 JUROR SHANTY: Huh-uh.

9 MS. JOHNSON: Okay. Did you talk to the victim
10 about it?

11 JUROR SHANTY: No.

12 MS. JOHNSON: Do you know -- did your friend tell
13 you about how her daughter was acting around the time that
14 it happened?

15 JUROR SHANTY: Yes.

16 MS. JOHNSON: Okay. Do you know how your friend
17 found out about it?

18 JUROR SHANTY: Her daughter told her.

19 MS. JOHNSON: Okay. Do you know if she told
20 immediately?

21 JUROR SHANTY: I believe she did.

22 MS. JOHNSON: My first question is do you think
23 you can set that aside and judge the evidence in this
24 case?

25 JUROR SHANTY: No, I don't think I could set it

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1 aside.

2 MS. JOHNSON: No, you don't; okay. Would you be
3 biased against the Defendant from the beginning of the
4 case?

5 JUROR SHANTY: Yes.

6 MS. JOHNSON: Is that what you're telling me?
7 Okay. Okay. Is there anyone else who feels that they
8 could not sit in judgment on this case because of the
9 charge alone? Okay. Has anyone here ever been a victim
10 or been a close friend of a victim or family member of a
11 victim of sexual abuse other than the three that I've
12 already spoken to? Okay, and that's Ms. Anthony? Okay.
13 Was it you or was it someone you're close to?

14 JUROR ANTHONY: It was me.

15 MS. JOHNSON: I'm sorry?

16 JUROR ANTHONY: It was me.

17 MS. JOHNSON: All right. How old were you when
18 it happened?

19 JUROR ANTHONY: About 6.

20 MS. JOHNSON: Okay. Was the person who did it to
21 you ever brought to court?

22 JUROR ANTHONY: No.

23 MS. JOHNSON: Do you know why or why not?

24 JUROR ANTHONY: Yes and no.

25 MS. JOHNSON: Okay. What do you -- tell me the

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1 yes part.

2 JUROR ANTHONY: Well, I did tell somebody about
3 it, but nothing was done about it.

4 MS. JOHNSON: Were the police ever called?

5 JUROR ANTHONY: No.

6 MS. JOHNSON: No? Do you feel you can set that
7 aside?

8 JUROR ANTHONY: Yes.

9 MS. JOHNSON: Have you dealt with that, you know,
10 emotional trauma?

11 JUROR ANTHONY: Yes and no.

12 MS. JOHNSON: Okay. As he sits here today, do
13 you already feel the Defendant's guilty in any way or can
14 you presume him innocent?

15 JUROR ANTHONY: I'm pretty much in limbo.

16 MS. JOHNSON: Okay. Do you think all victims
17 would have the same feelings that you had around this
18 time?

19 JUROR ANTHONY: Yes.

20 MS. JOHNSON: Okay. Do you think all victims
21 would act the same way after this happened?

22 JUROR ANTHONY: Not exactly, no.

23 MS. JOHNSON: Okay. If you were to hear from the
24 victim in this case and her experience was different than
25 yours, her reactions were different than yours, would that

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1 cause you to not believe her?

2 JUROR ANTHONY: No.

3 MS. JOHNSON: Okay. How close were you to the
4 person who did that to you?

5 JUROR ANTHONY: Well, it was like an after-school
6 babysitter. You know, it was her son.

7 MS. JOHNSON: Okay, so it was not a family
8 member. Okay. Is there anyone else who has either been a
9 victim or had a close friend or family member been a
10 victim of a sexual crime? Okay, Ms. Osborn. Was it you
11 or someone close to you?

12 JUROR OSBORN: Both.

13 MS. JOHNSON: Okay. Let's start with you. How
14 old were you when it happened?

15 JUROR OSBORN: 18.

16 MS. JOHNSON: And how close were you to the
17 person who did it?

18 JUROR OSBORN: A friend.

19 MS. JOHNSON: Was that friend ever prosecuted or
20 the police ever called?

21 JUROR OSBORN: Police was called
22 (indistinguishable), prosecuted.

23 MS. JOHNSON: Do you think the police handled it
24 appropriately?

25 JUROR OSBORN: Yeah.

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1 MS. JOHNSON: Uhm, can you set that aside and
2 listen to the evidence in this case?

3 JUROR OSBORN: Yeah.

4 MS. JOHNSON: Okay. And, again, the same
5 questions. Do you think all victims react the same way?

6 JUROR OSBORN: No.

7 MS. JOHNSON: And if the victim in this case were
8 to do something different than you did, have a reaction
9 different than you did, would you assume she's lying or
10 would you be able to listen to her with an open mind?

11 JUROR OSBORN: I'd be (indistinguishable.)

12 MS. JOHNSON: Okay. And then the close friend or
13 family member, was that a child?

14 JUROR OSBORN: Yes.

15 MS. JOHNSON: How old was the child?

16 JUROR OSBORN: 6 (indistinguishable.)

17 MS. JOHNSON: How close are you to the child?

18 JUROR OSBORN: (Indistinguishable.)

19 MS. BAKER: I'm sorry, I can't hear back here.

20 JUROR OSBORN: He's my nephew.

21 MS. BAKER: Okay.

22 MS. JOHNSON: And his parents, have they talked
23 to you about what happened?

24 JUROR OSBORN: Yes.

25 MS. JOHNSON: And have you talked to him to about

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1 what happened, your nephew?

2 JUROR OSBORN: Vaguely. He started
3 (indistinguishable.)

4 MS. JOHNSON: Okay. Do you think you can set
5 that aside?

6 JUROR OSBORN: I have anxiety about it sitting
7 here.

8 MS. JOHNSON: Okay. Do you think you can listen
9 to evidence of this type for the next, the better part of
10 this week?

11 JUROR OSBORN: I don't think so.

12 MS. JOHNSON: Would it cause you anxiety
13 problems, is that what I'm hearing?

14 JUROR OSBORN: (Indistinguishable.) Yeah.

15 MS. JOHNSON: Okay. Anyone else? Okay. Let's
16 talk about the flip side of that coin. Has anyone been
17 accused or know anyone who's been accused, close friend or
18 family member, of doing something like this or had to go
19 through the court process for this? Okay, I see no hands.
20 Okay. Ms. Bose, moving onto something a little lighter
21 topic, I see you work for GE. I've never had this in a
22 jury panel, but there are multiple people in this room who
23 work for GE. Do you know any of them?

24 JUROR BOSE: No.

25 MS. JOHNSON: Okay. If you were to find out that

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1 somebody on the jury were to work for the same company,
2 would that cause you any problems speaking your mind in
3 the jury room?

4 JUROR BOSE: (Indistinguishable.)

5 MS. JOHNSON: Okay. Is anybody familiar with any
6 of the witnesses that I listed?

7 MS. JUROR: I don't know if I'm - or if Jennifer
8 Houton --

9 MS. JOHNSON: Houston, yes.

10 MS. JUROR: Houston, okay. Does she work at GE?

11 MS. JOHNSON: Yes. Do you know her?

12 MS. JUROR: (Indistinguishable.)

13 MS. JOHNSON: Okay. How do you know her? I
14 mean, at work, but how close do you know her?

15 MS. JUROR: We have -- we don't each lunch
16 together or nothin', but I say hi to her.

17 MS. JOHNSON: Okay. Has she talked to you about
18 anything that's going on with her family or with the court
19 system?

20 MS. JUROR: No.

21 MS. JOHNSON: Would you have a tendency to
22 believe her or disbelieve her just based on what you know
23 of her from work?

24 MS. JUROR: No.

25 MS. JOHNSON: You don't know her well enough to

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1 say that you're going to believe everything she says;
2 right?

3 MS. JUROR: Right, right.

4 MS. JOHNSON: And on the flip side of that, you
5 don't know her well enough to say I can't believe what
6 this woman says?

7 MS. JUROR: Right.

8 MS. JOHNSON: Okay. So you'll judge her as you
9 would any other witness?

10 MS. JUROR: Yeah.

11 MS. JOHNSON: Okay. Anyone else know anybody
12 from the witness list? No. This is alleged to have
13 happened at a computer store run by the Defendant on
14 Airline Road. Is anybody familiar with that computer
15 store? I believe it was in a strip mall where Essential
16 Life Church currently is. Anybody familiar with that
17 area? No. Prior to coming to Court today, had anybody
18 seen or heard anything about this case? I don't think it
19 was in the media, but I can't watch everything. All
20 right. So that's everybody on the jury, no, has not heard
21 anything about this case prior to coming to Court? Okay.
22 Who here has kids by a show of hands? Okay. Almost
23 everybody but two or three of you. So let's start, Ms.
24 Booth?

25 JUROR BOOTH: Uh-huh.

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1 MS. JOHNSON: All right. You have children. How
2 many?

3 JUROR BOOTH: Two, they're adults.

4 MS. JOHNSON: Okay. When they were younger, did
5 they ever lie to you?

6 JUROR BOOTH: I'm sure they did.

7 MS. JOHNSON: Did you ever catch them in lies?

8 JUROR BOOTH: I mean, we're talkin' a long time
9 ago. I mean, I'm sure little, you know, kid type things.
10 Nothing of any significance when they were older.

11 MS. JOHNSON: Okay. Who has children in their
12 home now? Let's try this. Okay. Ms. Walters, have your
13 children -- how old are your children?

14 JUROR WALTERS: 19 and 13.

15 MS. JOHNSON: Okay, so actually right in the age
16 range we're talking about.

17 JUROR WALTERS: Is in college and
18 (indistinguishable.)

19 MS. JOHNSON: Have they ever lied to you?

20 JUROR WALTERS: I really can't say, you know,
21 that I've caught them in, no.

22 MS. JOHNSON: Okay. Has anybody here ever caught
23 their child in a lie? Okay, working my way down the row.
24 Ms. Denio. Okay. How old's your child?

25 JUROR DENIO: I have one 24 and one 27.

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1 MS. JOHNSON: And when you caught them in a lie,
2 what type of a lie was it?

3 JUROR DENIO: I caught him smoking pot.

4 MS. JOHNSON: Okay. Did they lie about it, deny
5 it?

6 JUROR DENIO: Oh, definitely.

7 MS. JOHNSON: Okay. Was it -- how did you know
8 they were lying?

9 JUROR DENIO: The eyes. I just looked at his
10 eyes.

11 MS. JOHNSON: Okay. Was it pretty -- so it was
12 pretty easy in that instance for you to tell?

13 JUROR DENIO: Very, very obvious.

14 MS. JOHNSON: How old were they when that
15 happened?

16 JUROR DENIO: He was 15.

17 MS. JOHNSON: Okay. Anybody else have any
18 experience with catching a child in a lie? No, okay. So
19 it was an easy thing to do?

20 JUROR DENIO: Uh-huh.

21 MS. JOHNSON: Okay. You're not trained in the
22 art of cross-examination or --

23 JUROR DENIO: No. He thought I was, but
24 (laughing) ...

25 MS. JOHNSON: He thought it was what?

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1 JUROR DENIO: He thought that I was trained in
2 the art of cross-examination.

3 MS. JOHNSON: Did he? Okay. But you were able
4 to question him and find out that he was lying?

5 JUROR DENIO: Uh-huh.

6 MS. JOHNSON: Okay, all right. So one of the
7 things you'll hear repeated in this courtroom again and
8 again is that as the prosecutor I have the burden of
9 proof. It's my job to prove the Defendant guilty. I
10 welcome that burden. He does not have to prove anything
11 to you. You'll hear that again and again. But what
12 exactly does that mean? What do I have to prove? The
13 Judge is going to give you jury instructions at some point
14 during the case that list for you the elements of the
15 crime. I ask and I'll repeat this again in my closing
16 argument, I ask that when you think of these elements you
17 think of them as a checklist; okay? And I have to prove
18 -- and you will hear from the Court I have to prove
19 nothing more and nothing less than the checklist. Those
20 are the only things I have to prove beyond a reasonable
21 doubt. Can everybody promise to hold me to that burden,
22 nothing more, nothing less? Raise your hand if you can
23 make me that promise. Okay, thank you. I see all hands
24 raised.

25 So the next logical question is how do I prove

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1 these things? And I prove them to you through testimony
2 and evidence. Okay. There are a couple different types
3 of evidence. There is testimony which will come from
4 witnesses sitting right here at this jury -- excuse me, at
5 that witness stand swearing to tell the truth and then
6 testifying to what -- their evidence they have to offer
7 and there may also be physical evidence, things that you
8 can hold, touch, see. For example, in a homicide case you
9 might expect to see the murder weapon. That would be an
10 example of physical evidence.

11 I'm going to tell you right now there is no
12 physical evidence in this case. It's all gonna come from
13 the witness stand. Is there anybody sitting amongst you
14 who says without something physical that I can touch and
15 see and hold in my hands, testimony alone is not gonna be
16 enough to prove this case? Testimony alone will never
17 reach beyond a reasonable doubt? Please raise your hands.
18 Ms. Denio, I see your eyebrows kind of raising.

19 JUROR DENIO: Yeah. Mmmmm, no physical evidence
20 at all.

21 MS. JOHNSON: Share your thoughts aloud with me.

22 JUROR DENIO: But it just goes back to, you know,
23 with my son, as his mother and the motherly instinct I
24 know you're lying, but to do that to somebody else that I
25 don't know, that I didn't give birth to, to say you're

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1 guilty just because? I don't know. That brings up a
2 question in my mind.

3 MS. JOHNSON: Okay. So if the witnesses were,
4 you know, we have multiple witnesses, I've read you the
5 list. If they were to testify and they were to give you
6 the elements in their testimony, you don't think based on
7 testimony alone that that could ever rise to the beyond a
8 reasonable doubt standard?

9 JUROR DENIO: (Indistinguishable.)

10 MS. JOHNSON: You got to speak up.

11 JUROR DENIO: I don't know.

12 MS. JOHNSON: You don't know.

13 JUROR DENIO: I don't know.

14 MS. JOHNSON: Okay. So you cannot say that
15 testimony alone is enough?

16 JUROR DENIO: No, I can't say that.

17 MS. JOHNSON: Thank you. Is there anyone who
18 agrees with Ms. Denio who says, you know, testimony alone
19 is not gonna be enough for me for that beyond a reasonable
20 doubt standard? Okay. Ms. Coleman, you've been very
21 quiet. What do you think of that? Do you think you can
22 listen to the witnesses and decide for yourself if they're
23 telling the truth?

24 JUROR COLEMAN: Yes.

25 MS. JOHNSON: And if you believe they're telling

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1 the truth or that there is enough truth in the case to
2 prove the elements beyond a reasonable doubt, are you
3 going to be able to return a verdict of guilty without any
4 physical evidence?

5 JUROR COLEMAN: Yes.

6 MS. JOHNSON: And Ms. Metcalf, same question for
7 you. How do you feel about the testimony versus physical
8 evidence issue?

9 JUROR METCALF: Well, I don't know if this is
10 appropriate, but as a nurse I work in a hospital. No --
11 are you saying there's no physical evidence --

12 MS. JOHNSON: I'm saying there's nothing you're
13 going to be able to hold in your hand.

14 JUROR METCALF: Just based on
15 (indistinguishable.)

16 MS. JOHNSON: Just based on testimony alone will
17 you be able to make a decision if you believe -- if you
18 believe what the witnesses say and you believe what they
19 say meets the elements, will you be able to return a
20 verdict of guilty?

21 JUROR METCALF: (Indistinguishable.)

22 MS. JOHNSON: Okay. What type of nurse are you?

23 JUROR METCALF: I'm a registered nurse.

24 MS. JOHNSON: Okay. Do you have a specialty as a
25 -- no. Have you ever worked in gynecology or obs -- I can

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1 never say the other word, ob -- obstetrics (sic). Have you
2 done that?

3 JUROR METCALF: Yes.

4 MS. JOHNSON: Okay. How recently?

5 JUROR METCALF: It's been 10 years.

6 MS. JOHNSON: It's been 10 years?

7 JUROR METCALF: Yes.

8 MS. JOHNSON: Okay. Did you perform
9 examinations, pelvic examinations?

10 JUROR METCALF: With physicians, yes.

11 MS. JOHNSON: All right. Sorry, I got
12 sidetracked there. Anybody else, the physical versus
13 testimonial evidence issue? Mr. Six, could you listen to
14 a case that was testimonial only and return a verdict of
15 guilty if you think that the witnesses are credible and
16 that their evidence establishes the elements?

17 JUROR SIX: Yes.

18 MS. JOHNSON: Okay. Is there anybody who cannot
19 do that? Last show of hands. Okay, I see no hands
20 raised, so Ms. Denio, you're the -- but I got your answer
21 already. All right, okay. So I guess I should talk to
22 you about what beyond a reasonable doubt is and I know the
23 Judge talked about it a little bit. It's kind of a
24 circular definition. A reasonable doubt is a doubt that's
25 reasonable. It's a doubt based in reason and it's not a

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1 possible doubt or a, you know, hypothetical doubt or a
2 forced doubt. Not speculative.

3 I grew up watching a lot of legal movies, and
4 they're not as fun for me anymore because I know a little
5 too much about the law now. And I was watching a movie
6 recently and it was driving me crazy. There were jurors
7 in the back and they kept saying, but this is possible.
8 It's possible that it happened this way. It's possible
9 that it happened that way, and they kept throwing out it's
10 possible, it's possible. That is not the standard. Is it
11 possible but also is it reasonable in light of the
12 evidence? To give you a little example, if you were to
13 pretend there's no windows in this room or that the blinds
14 were drawn and when you had walked in this morning it was
15 cloudy and as we were sitting here you saw someone come in
16 with a yellow slicker and had raindrops on it or wet drops
17 on it, and when you walk outside at the end of the day
18 there's puddles everywhere and there's droplets of water
19 on the cars, what do you think happened outside or what
20 did happen outside?

21 SEVERAL JURORS: Rained.

22 MS. JOHNSON: It rained. Is it possible that the
23 firemen in this town had a party, had a little too much to
24 drink, got on their firetrucks, came down to the
25 courthouse and hosed everything down as a gag? Is that

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1 possible? Could that happen? I see some -- I see one no,
2 but I saw some yeses. It's possible that the firemen
3 brought their hoses out, whether it was because of a party
4 or a gag or whatever. Is that a reasonable thing to
5 believe? No. Okay. That's what I'm talking about. When
6 you're sitting in the back and ask your -- and, you know,
7 if you were talking about the case and you say it's
8 possible it did this, it's possible that it did that,
9 that's not where the conversation should end. The
10 conversation should end with well, but is it reasonable;
11 okay?

12 Let's see. Okay. You're going to hear from
13 some expert witnesses in this case, and they may say some
14 things that are contrary to a belief or two that you
15 commonly hold; okay? Is there anybody on the panel who is
16 an expert in child sexual abuse? Everybody raise your
17 hand, say you're not an expert in that field. Okay.
18 Everybody's not an expert. And everybody is also -- is
19 there anybody on the panel that's a doctor who specializes
20 in child sexual abuse or child abuse? All right. I see
21 no hands. So can we all agree that you do not have an
22 expertise in that area? Okay. And I want to see a show
23 of hands. Can you all agree to be open-minded to what
24 these experts are going to tell you? Everybody agree?
25 Okay.

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1 Has anybody ever been in a jail or a mental
2 institution before. Okay.

3 MR. JUROR: (Indistinguishable.)

4 MS. JOHNSON: Ms. -- okay. I'll start in the
5 back row, Mr. Powe, Powe, Pugh. I'm gonna write it down
6 phonetically.

7 JUROR PUGH: Pugh. Do it all the time.

8 MS. JOHNSON: Jail or mental hospital or --

9 JUROR PUGH: Jail.

10 MS. JOHNSON: Okay. As a visitor or were you --

11 JUROR PUGH: No, I was an inmate.

12 MS. JOHNSON: An inmate, okay. Let me see. I
13 think I do have a note that you had some misdemeanors;
14 correct? Is that what it was for?

15 JUROR PUGH: Yeah.

16 MS. JOHNSON: How long ago was that?

17 JUROR PUGH: 1990.

18 MS. JOHNSON: Okay. Have you had any other
19 brushes with the law since then?

20 JUROR PUGH: No.

21 MS. JOHNSON: No? Okay. Was that here?

22 JUROR PUGH: When I was 17 I got in trouble.

23 MS. JOHNSON: Okay.

24 JUROR PUGH: (Indistinguishable) in trouble. I
25 had -- I did ti -- I had some felonies on me.

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1 MS. JOHNSON: Oh, you did. Okay. Are you a
2 convicted felon?

3 JUROR PUGH: Yeah.

4 MS. JOHNSON: And have you had your civil rights
5 restored at all?

6 JUROR PUGH: Well, I didn't lose no rights. I
7 was just -- I was in the county jail here, just -- it's
8 all -- this is years ago.

9 MS. JOHNSON: Okay. But that was here in
10 Muskegon?

11 JUROR PUGH: Yes.

12 MS. JOHNSON: Do you think you were treated
13 fairly throughout that process?

14 JUROR PUGH: Yes.

15 MS. JOHNSON: And in 1990 as well, do you think
16 you were treated fairly?

17 JUROR PUGH: Yes.

18 MS. JOHNSON: Okay. Is there anything about that
19 experience that you would hold against the police or the
20 prosecutor's office?

21 JUROR PUGH: No.

22 MS. JOHNSON: Can you set that experience aside
23 and listen to the evidence today or this week?

24 JUROR PUGH: Uh-huh (indistinguishable.)

25 MS. JOHNSON: Moving down the row, I think the

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1 next hand I -- was there another hand in the back row,
2 ladies? Okay. Ms. Shanty.

3 JUROR SHANTY: Yes, it was in Grand Haven.

4 MS. JOHNSON: Okay.

5 JUROR SHANTY: It was actually for having too
6 many dogs.

7 MS. JOHNSON: Okay. How long ago was that?

8 JUROR SHANTY: Probably eight years ago.

9 MS. JOHNSON: Okay. Do you think you were
10 treated fairly throughout that?

11 JUROR SHANTY: No, because they couldn't give a
12 reason why.

13 MS. JOHNSON: Is there anything about that
14 experience that you would hold against the police in this
15 case? You said it was Grand Haven; right?

16 JUROR SHANTY: Yeah.

17 MS. JOHNSON: So it was a different county,
18 different police, different --

19 JUROR SHANTY: Prosecutor.

20 MS. JOHNSON: Okay. Different prosecutor's office
21 and completely different crime; correct? Is there
22 anything about that that you hold against the prosecution
23 or the police in this case?

24 JUROR SHANTY: (Indistinguishable.)

25 MS. JOHNSON: You think you can set it aside and

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1 just listen to the testimony and evidence?

2 JUROR SHANTY: Yes, I could.

3 MS. JOHNSON: Okay. Mr. Sturgeon?

4 JUROR STURGEON: Just a misdemeanor I did one
5 night.

6 MS. JOHNSON: Okay. How long ago?

7 JUROR STURGEON: 2009, (indistinguishable).

8 MS. JOHNSON: Was that here?

9 JUROR STURGEON: Yes.

10 MS. JOHNSON: So that would have been my office
11 that prosecuted you?

12 JUROR STURGEON: Yes.

13 MS. JOHNSON: I don't think I was there at the
14 time, but do you think you were treated fairly?

15 JUROR STURGEON: Yes.

16 MS. JOHNSON: Would you think you can set that
17 aside and listen to the testimony and evidence in this
18 case, aside from what we already talked about? Okay. So
19 nodding yes?

20 JUROR STURGEON: Yes.

21 MS. JOHNSON: Anybody else in the front row or
22 back row? Okay, Ms. Anthony.

23 JUROR ANTHONY: (Indistinguishable.)

24 MS. JOHNSON: Okay. Was any of that in
25 connection with what we talked about earlier?

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1 JUROR ANTHONY: No.

2 MS. JOHNSON: No, okay. For the jail, were you
3 there as a visitor or an inmate?

4 JUROR ANTHONY: Inmate.

5 MS. JOHNSON: All right. How long ago?

6 JUROR ANTHONY: Oh, like a year and a half ago?

7 MS. JOHNSON: Okay. Here?

8 JUROR ANTHONY: Yes.

9 MS. JOHNSON: Were you convicted of anything?

10 JUROR ANTHONY: I had a misdemeanor, yeah.

11 MS. JOHNSON: Misdemeanor. Do you think you were
12 treated fairly?

13 JUROR ANTHONY: Yeah.

14 MS. JOHNSON: Anyone else? All right. Mr. Six,
15 you're a refrigerator repairman?

16 JUROR SIX: Refrigeration.

17 MS. JOHNSON: Refrigeration, is it -- okay. I'm
18 sorry. That's different?

19 JUROR SIX: It's -- I work on --

20 MS. JOHNSON: Broader then?

21 JUROR SIX: Yeah, industrial.

22 MS. JOHNSON: Okay. You've obviously a very
23 handy person then?

24 JUROR SIX: (Indistinguishable.)

25 MS. JOHNSON: Do you have a specialization?

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1 JUROR SIX: Yeah.

2 MS. JOHNSON: Do you think you have the same
3 knowledge about, say, residential heating that you have
4 about commercial refrigeration?

5 JUROR SIX: Yeah, I did that too.

6 MS. JOHNSON: You've done that too? Okay. You
7 think you have the same knowledge of plumbing as you do
8 about the two things that you've specialized in?

9 JUROR SIX: Yeah.

10 MS. JOHNSON: So despite the fact that those are
11 both very handy things, if there were to be a plumbing
12 expert that came in, would you listen to that plumbing
13 expert or would you -- would you be able to listen to a
14 plumbing expert with an open mind?

15 JUROR SIX: Yes.

16 MS. JOHNSON: Okay, because it's not your
17 specialization?

18 JUROR SIX: Sure.

19 MS. JOHNSON: Okay. So Ms. Metcalf, similar in
20 my question to you is we've already established you're not
21 an expert -- or a specialization in child sexual abuse.
22 If one of the witnesses is specialized in child sexual
23 abuse, would you be able to listen to that expert or would
24 you say, I'll be thinking, ah, that's not quite how I
25 understand things.

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1 JUROR METCALF: I would listen.

2 MS. JOHNSON: You would listen, okay. Ms.
3 Coleman, your questionnaire says you used to work for the
4 county?

5 JUROR COLEMAN: Yes.

6 MS. JOHNSON: In accounting; right?

7 JUROR COLEMAN: Yes.

8 MS. JOHNSON: Did you have anything to do with
9 the courts at all?

10 JUROR COLEMAN: No.

11 MS. JOHNSON: Throughout your career? No? Okay.
12 So there's nothing about that that should influence you
13 sitting here?

14 JUROR COLEMAN: No.

15 MS. JOHNSON: No, all right. Ms. Osborn, your
16 questionnaire indicates there's a misdemeanor conviction?
17 How long ago was that?

18 JUROR OSBORN: I'm not sure. Like a road
19 violation, traffic ticket.

20 MS. JOHNSON: Oh, traffic ticket?

21 JUROR OSBORN: Yes.

22 MS. JOHNSON: Okay. Nothing about that that
23 should affect your ability to sit here?

24 JUROR OSBORN: No.

25 MS. JOHNSON: Gotcha. I'm just going over my

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1 notes from your questionnaires to see if I have any last
2 questions for you. Oh, Mr. Klassen, you're an engineer.
3 Okay. My understanding of engineers is that it's very
4 precise work; is that correct?

5 JUROR KLASSEN: Yes.

6 MS. JOHNSON: All right. And figures have to
7 match up exactly and so your mind must work in a very
8 precise way.

9 JUROR KLASSEN: Right.

10 MS. JOHNSON: Okay. Trial work is a much
11 different type of work for a juror to do. There is no one
12 victim plus one murder weapon equals one conviction; okay?
13 You have to sit and judge the testimony, decide what of it
14 you believe and decide does that meet this idea of beyond
15 a reasonable doubt, and are you going to be able to do
16 that?

17 JUROR KLASSEN: Yes. (Indistinguishable.)

18 MS. JOHNSON: You have? Okay. Criminal or
19 civil?

20 JUROR KLASSEN: It was a lawsuit.

21 MS. JOHNSON: Okay, so civil. All right. I am
22 about to sit down, and this is going to be my last
23 opportunity to speak with you all individually. Is there
24 anyone who has anything to add to any of the conversations
25 I've had with your fellow jurors before I sit down? All

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1 right. Thank you so much for your attention.

2 THE COURT: Okay. Did you say you wanted to
3 take -- okay. We're gonna take a five-minute break.

4 (Off the record at 11:29:37.)

5 (Court resumes at 11:38:39.)

6 THE COURT: Okay, we're back on the record in
7 People versus Rainbolt. Ms. Baker, if you'd like to
8 question the jury, you may at this time.

9 MS. BAKER: Thank you, your Honor. Good morning.

10 JURORS: Good morning.

11 MS. BAKER: All right. I'm going to apologize.
12 Some of you folks, I can't see your faces when I'm over
13 there, so it was a little hard for me to hear sometimes,
14 but I tried. Ms. Booth, are you a women's division
15 member?

16 JUROR BOOTH: I was years ago. I haven't been
17 for probably four years.

18 MS. BAKER: Okay, I think I re -- I'm a member
19 and I looked at your name and I went, gosh, I think you
20 know me.

21 JUROR BOOTH: Oh.

22 MS. BAKER: Maybe I remember your name on lists,
23 so we don't meet but once a month in that group and it's
24 been four years since you've been a member, so you and I
25 haven't talked.

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1 THE COURT: Ms. Baker, you're going to have to
2 speak up.

3 MS. BAKER: I need to talk louder, okay.

4 THE COURT: Louder. We've got several jurors
5 that can't hear you.

6 MS. BAKER: Sorry. Talked to Ms. Booth about a
7 group we belo -- we used -- or she used to belong to that
8 I still do belong to, so, okay. Great. All right. Now I
9 have to ask, does anyone have any friends, close friends,
10 family members who are in law enforcement? Okay. I see
11 Ms. Osborn; right?

12 JUROR OSBORN: Yes.

13 MS. BAKER: Okay. Who are --

14 JUROR OSBORN: I have a friend in Ottawa County.

15 MS. BAKER: Okay.

16 JUROR OSBORN: (Indistinguishable) Pierson.

17 MS. BAKER: All right. And are you good friends?

18 JUROR OSBORN: Yeah.

19 MS. BAKER: Okay. Do you talk --

20 JUROR OSBORN: We're acquaintances, if that, so;
21 yeah.

22 MS. BAKER: Do you talk about the cases that she
23 works on?

24 JUROR OSBORN: No.

25 MS. BAKER: Do you think that or what is your

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1 thought on their ability to testify?

2 JUROR OSBORN: Nothing really.

3 MS. BAKER: Nothing? Okay. Do you think they're
4 any different than any other person?

5 JUROR OSBORN: No.

6 MS. BAKER: Okay. Ms. Metcalf?

7 JUROR METCALF: Yes. I have a brother that's a
8 retired state police that works for the federal
9 government.

10 MS. BAKER: Okay.

11 JUROR METCALF: And Tom Kresnik is a family
12 friend.

13 MS. BAKER: Okay. And your husband is the fire
14 marshal; correct?

15 JUROR METCALF: Yes, he is.

16 MS. BAKER: So he kind of does some investigation
17 into the source of fires; correct?

18 JUROR METCALF: Yes.

19 MS. BAKER: Do you think that that relationship
20 or your relationship with Mr. Kresnik or your family
21 members might color your view of the evidence in this
22 case?

23 JUROR METCALF: No.

24 MS. BAKER: You'll be able to set that aside?

25 JUROR METCALF: (Indistinguishable.)

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1 MS. BAKER: Thank you. Did somebody else raise
2 their hand? Is it Denio?

3 JUROR DENIO: Denio, yes.

4 MS. BAKER: Okay.

5 JUROR DENIO: My father-in-law and my husband and
6 several of their uncles were ex-police officers in
7 Eggleston Township.

8 MS. BAKER: In Eggleston Township? Did they have
9 their own police force out there?

10 JUROR DENIO: Yes, back in the '60s and '70s.

11 MS. BAKER: Okay. Quite some time ago?

12 JUROR DENIO: Uh-huh.

13 MS. BAKER: Now does that history or that
14 relationship make you favor the police more than anyone
15 else?

16 JUROR DENIO: No.

17 MS. BAKER: That's not gonna color your ability
18 to listen to this case? All right. Well, thank you for
19 your honesty and candor. Ms. Osborn, you indicated you
20 had some anxiety sitting here about this case; correct?

21 JUROR OSBORN: Yes.

22 MS. BAKER: Okay. I'm not gonna sugar-coat it.
23 This is a yucky case. Criminal sexual conduct is not a
24 fun topic to talk about, despite the fact that Law and
25 Order has its own special victim's unit. That doesn't

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1 make it fun to sit in this situation. The question that
2 we need to get down to the nitty gritty on is does your
3 anxiety make it such that you would not be able to -- or
4 you would just go into it and go, I've already made my
5 decision, I don't need to hear anything, I don't see
6 anything, I'm done?

7 JUROR OSBORN: No. I could listen.

8 MS. BAKER: Okay. All right.

9 JUROR OSBORN: Hurtfully.

10 MS. BAKER: It would hurt you?

11 JUROR OSBORN: Tears in my eyes probably, but I
12 could make a decision, I'm sure.

13 MS. BAKER: Do you think that you could do it
14 impartially?

15 JUROR OSBORN: Uhm, I could do it straight
16 (indistinguishable.)

17 MS. BAKER: Okay. Now based on the nature of the
18 charge, is Mr. Rainbolt guilty or not guilty right now?

19 JUROR OSBORN: I can't say.

20 MS. BAKER: You can say.

21 JUROR OSBORN: I probably would say guilty just
22 by hearing that, of what he done, so ...

23 MS. BAKER: What he's alleged to have done.

24 JUROR OSBORN: Correct.

25 MS. BAKER: Okay. So you've al -- you can say at

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1 this point in time you would find him guilty based on the
2 reading of the charge. Does anyone else agree with Ms.
3 Osborn?

4 JUROR STURGEON: Looking at that aspect, I have a
5 daughter at that age right now, and what happened to my
6 friend's son, I would need more -- I would have a hard
7 time tryin' to give him a fair trial. I don't want to say
8 that he's a dirty person or anything, but I mean I just --
9 it's something that I don't -- I don't like.

10 MS. BAKER: I completely understand. I don't
11 think a single person in this courtroom --

12 JUROR STURGEON: No, no, I --

13 MS. BAKER: -- would disagree with you regarding
14 that. The question is can you sit there as a fair and
15 impartial juror, and if your answer is no, that's an okay
16 answer. There's no wrong answer.

17 JUROR STURGEON: I don't think I could.

18 MS. BAKER: Okay. Does anyone else agree with
19 Mr. Sturgeon? Okay. Thank you. I appreciate both of
20 your candor. It's difficult. This is not easy. I
21 understand that. Now Ms. Shanty, you had indicated that
22 you were going to have some concerns as well; correct?

23 JUROR SHANTY: Right.

24 MS. BAKER: And do those concerns still continue
25 now that I'm here and Ms. Johnson has sat down?

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1 JUROR SHANTY: Right, yes. I don't think I could
2 set aside what's happened to my friend's daughter.

3 MS. BAKER: Okay.

4 JUROR SHANTY: It still kind of haunts me of what
5 happened to her.

6 MS. BAKER: Okay. And that experience, we all
7 have different life experiences, and they all affect us in
8 different ways, so I appreciate you telling me that. It
9 sounds like that experience with your friend and her
10 daughter would make it impossible for you to set aside or
11 to basically presume he's innocent.

12 JUROR SHANTY: I think so.

13 MS. BAKER: Okay, thank you. Thank you for your
14 candor. Does anyone agree with Ms. Shanty? Okay, all
15 right. Ms. Anthony, do you think you would have that
16 problem? No? Ms. Walters?

17 JUROR WALTERS: (Indistinguishable.)

18 MS. BAKER: Okay. You don't agree with Ms.
19 Shanty?

20 JUROR WALTERS: I'm sorry, the question?

21 MS. BAKER: Do you agree with Ms. Shanty?

22 JUROR WALTERS: The question do I agree?

23 MS. BAKER: With her conclusions, she wouldn't be
24 able to sit impartially?

25 JUROR WALTERS: Oh, I would -- I -- no, I think I

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1 could.

2 MS. BAKER: Okay. Are you going to have a
3 problem sitting through the trial regarding this
4 allegation of criminal sexual conduct?

5 JUROR WALTERS: Uhm, I don't believe so.

6 MS. BAKER: Okay. Because you gotta be prepared
7 for it. There's gonna be talk about sex.

8 JUROR WALTERS: I mean, yeah, I certainly, you
9 know, wouldn't like to.

10 MS. BAKER: No, I wouldn't either.

11 JUROR WALTERS: Jeez.

12 MS. BAKER: I completely understand, but is your
13 discomfort sitting here talking to me going to get in the
14 way of your listening to the evidence?

15 JUROR WALTERS: I don't believe so.

16 MS. BAKER: Okay. Now the Judge did tell you
17 about the reasonable doubt and the burden of proof, and
18 everybody still -- I think some people forgot that Mr.
19 Rainbolt's presumed innocent; correct?

20 SEVERAL JURORS: Yes.

21 MS. BAKER: Okay. So at right this moment that
22 presumption exists; okay? We all agree?

23 SEVERAL JURORS: Yes.

24 MS. BAKER: Might have forgotten. It's okay.

25 And that at the end of the trial that presumption still

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1 exists until the prosecutor has met their burden of proof;
2 correct? Now Ms. Johnson asked a bunch of you or asked
3 about being victims of sexual abuse. Ms. Walters, do you
4 have children in your house?

5 JUROR WALTERS: Yes.

6 MS. BAKER: Okay. How old are they?

7 JUROR WALTERS: 13 and I have a 19-year-old in
8 college.

9 MS. BAKER: Okay. Well, congratulations. That's
10 an accomplishments these days. Now is your 13-year-old a
11 girl or a boy?

12 JUROR WALTERS: Girl.

13 MS. BAKER: And can you tell us about the most
14 difficult situation you've had with her in which you
15 thought she wasn't telling the truth?

16 JUROR WALTERS: Uhm, honestly, I -- to be
17 truthful, I haven't had -- she's a straight A student,
18 she's -- I haven't had a situation where I haven't thought
19 she was telling the truth, honestly.

20 MS. BAKER: Thank you. That's awesome. That's
21 awesome.

22 JUROR WALTERS: She's a good girl.

23 MS. BAKER: I've got a 3-year-old and a 6-year-
24 old and I can't say that, so ...

25 I walked into the living room one day and looked

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1 at my glasses that were broken on the chair and I went,
2 who did that? And they both looked at me like what? Who
3 did what? Took five minutes for me to figure out who it
4 was. Has anyone -- well, you've had the smoking pot;
5 right? There's kind of big telltale signs when they're
6 smokin' pot.

7 MS. JUROR: Uh-huh.

8 MS. BAKER: Mr. Sturgeon, have you had problems
9 with your child?

10 JUROR STURGEON: I'm sure I have. I can't -- any
11 come to mind right off the top of my head. I mean, I'm
12 sure she's lied to me when she shut the video games off at
13 night or 1:00 in the morning.

14 MS. BAKER: Well, how do you -- has anyone had an
15 incident at -- well, Mr. Six, when you were at work or on
16 this -- oh, I have to tell you, my dad does the same thing
17 or has done the same thing as you but he's on the other
18 side of the state, so no competition there, but when you
19 said refrigeration I'm like, I know exactly what he does.
20 So anyway, have you ever in your work or home life had to
21 deal with someone who was lying?

22 JUROR SIX: Oh, yeah. I actually have a 14-year-
23 old step-son.

24 MS. BAKER: Okay.

25 JUROR SIX: He don't have any brothers or sisters

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1 or anything and he does something and we catch him and he
2 won't admit to it for a couple hours. I'm like you're the
3 only one here. We know we didn't do it.

4 MS. BAKER: Right.

5 JUROR SIX: Damaging something in the house or
6 somethin'.

7 MS. BAKER: Sure.

8 JUROR SIX: Eventually he comes out and tells us
9 the truth, but sometimes it takes a bit to get it out of
10 him.

11 MS. BAKER: Well, what do you look for when
12 you're trying to figure out what the truth is?

13 JUROR SIX: Just something that don't make sense.
14 I mean, the track's right there, something's damaged, we
15 didn't do it, he did it. There's no one else in the
16 house. The cat didn't do it.

17 MS. BAKER: Sure, sure. Okay. Now, Ms. Walters,
18 I know you said that your daughter doesn't lie, but do you
19 think that all teenagers don't lie?

20 JUROR WALTERS: No.

21 MS. BAKER: Okay. Did your 19-year-old lie?

22 JUROR WALTERS: Not that I ever really know about
23 yet. I'm sure.

24 MS. BAKER: All right. Then I'm gonna have to
25 ask this. Did you lie when you were a teenager?

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1 JUROR WALTERS: Yep, I probably did.

2 MS. BAKER: I'm pretty sure a lot of people would
3 admit that.

4 JUROR WALTERS: Yeah.

5 MS. BAKER: And I can honestly say that I was
6 drinking under age when I was in high school and I lied
7 about it to my parents until I got caught.

8 JUROR WALTERS: That's right.

9 MS. BAKER: Anybody else done that or something
10 like that? Okay, see? All right. This is going to be a
11 credibility issue, ladies and gentlemen. It's going to
12 require that you use your reason and common sense to
13 determine who's telling the truth. Does that create any
14 concerns for any of you? No? Ms. Bose, I have to ask
15 that since you might know this young lady's mother, if you
16 find Mr. Rainbolt not guilty, is that going to create an
17 issue for you at work?

18 JUROR BOSE: I hope not, but I don't (inaudible).

19 MS. BAKER: Okay. Do you think that that might
20 affect how you sit here today?

21 JUROR BOSE: (Inaudible.)

22 MS. BAKER: Okay, thank you. Most of the
23 testimony that's going to -- or most of the evidence
24 that's coming into this trial is going to be coming from
25 witnesses who sit in this box here today. I'm trying to

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1 speak up; sorry. Does anyone require that I present any
2 testimony or evidence to the trial? Anyone? All right.
3 Good, because the rules are that the prosecutor has the
4 burden of proof; correct? All right.

5 One of the things that you're going to hear are
6 about the elements of the crime in this case and how each
7 one has to be proven beyond a reasonable doubt. Please
8 remember that that is the prosecutor's burden. You're not
9 going to hear that reasonable or beyond a reasonable doubt
10 is the burden maintained by myself and Mr. Rainbolt.
11 Would anyone require that Mr. Rainbolt present -- or
12 testify? What if he doesn't testify?

13 MS. JUROR: That's his right.

14 MS. BAKER: Pardon me?

15 MS. JUROR: That's his right.

16 MS. BAKER: I beg your pardon?

17 MS. JUROR: (Inaudible.)

18 MS. BAKER: You think he would look guilty?

19 MS. JUROR: (Inaudible.)

20 MS. BAKER: You agree with that, Ms. Osborn?

21 JUROR OSBORN: To an extent, you know.

22 MS. BAKER: Does anyone else agree with that,
23 that he would look guilty if he didn't take the stand?
24 No? Mr. Pugh.

25 JUROR PUGH: Yes.

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1 MS. BAKER: What do you think about that?

2 JUROR PUGH: If he didn't take the stand, that'd
3 give me a reason to (indistinguishable) to think negative
4 on his part.

5 MS. BAKER: All right. Thank you for sharing
6 that. Well, you are going to be instructed that he has
7 the right not to take the stand. Would you be able to
8 think about that or put that expectation aside or not? If
9 not there's -- like I said, there's no wrong answer. I'm
10 not trying to pick on anyone. Well, thank you, folks, I
11 appreciate it. Is there anything that you folks think
12 that I should know or that the Court should know that
13 might interfere with your ability to be a fair and
14 impartial juror here? I don't see any hands up. I'm
15 going to ask this because during the last jury trial I had
16 one of the jurors seated after the first day of trial said
17 I won't have transportation to get back here tomorrow, so
18 I'm done. Anyone have that problem? I'm just throwing it
19 out there. If you do, you need to tell us when you get up
20 here, so please let us know. Okay? All right. Thank you
21 very much for your attention.

22 THE COURT: Okay. The jury's with the People for
23 cause.

24 MS. JOHNSON: The People would move for cause on
25 juror number -- in seat number two, Mr. Pugh.

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1 THE COURT: Any objection?

2 MS. BAKER: No.

3 THE COURT: All right. Thank you, Mr. Pugh, you
4 may stand down. If you are excused -- do they need to
5 call this evening?

6 THE CLERK: Yes, sir.

7 THE COURT: They do?

8 THE CLERK: They do.

9 THE COURT: Okay. If you are excused, you're
10 excused for the day but you do need to call the jury clerk
11 this evening to see if your services will be needed
12 tomorrow. Thank you. Next juror, please?

13 THE CLERK: Mary Thornton.

14 THE COURT: Ms. Thornton, have you heard all the
15 questions that were asked of the other jurors?

16 JUROR THORNTON: Yes.

17 THE COURT: Based on those questions, is there
18 anyone who's been introduced that you are acquainted with?

19 JUROR THORNTON: No.

20 THE COURT: And based on those questions are you
21 aware of any reason why you could not be a fair and
22 impartial juror?

23 JUROR THORNTON: Yes.

24 THE COURT: You are?

25 JUROR THORNTON: Yes.

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1 THE COURT: Okay. And why would that be?

2 JUROR THORNTON: I have a close family member who
3 was abused, but I don't want to talk about it because
4 there's another juror here who knows the parties and it
5 was never brought out.

6 THE COURT: And so is there some reason because
7 of that incident that you couldn't be fair and impartial
8 in this case? This is a totally different case.

9 JUROR THORNTON: No, but if I was answered --
10 asked the questions by them, I wouldn't want to answer.

11 THE COURT: Okay, but can you be fair and
12 impartial?

13 JUROR THORNTON: I don't know.

14 THE COURT: Okay, you're excused. You may stand
15 down, ma'am. You need to call. You'll be needed for a
16 trial tomorrow morning. Next juror, please?

17 THE CLERK: Shannon McKinnon.

18 THE COURT: Mr. McKinnon, have you heard all the
19 questions?

20 JUROR MCKINNON: Yes.

21 THE COURT: Are you acquainted with anyone
22 involved in the case?

23 JUROR MCKINNON: I heard Mark VanHook.

24 THE COURT: Okay. Is there anything about your
25 acquaintance with that person that would cause you to be

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1 not fair and impartial?

2 JUROR McKINNON: No.

3 THE COURT: Do you feel you can be fair and
4 impartial to both sides?

5 JUROR McKINNON: Yes.

6 THE COURT: Anything, Ms. Johnson?

7 MS. JOHNSON: How do you know that witness?

8 JUROR McKINNON: Family friend. He's known me
9 since, well, since I was a little kid.

10 MS. JOHNSON: Okay. Are you close with him?

11 JUROR McKINNON: Not -- somewhat.

12 MS. JOHNSON: Okay. How often do you see him?

13 JUROR McKINNON: A few times a year.

14 MS. JOHNSON: Okay. You said he's a family
15 friend. Are you friends with the rest of his family?

16 JUROR McKINNON: No. I know them, but ...

17 MS. JOHNSON: Is he friends with your family
18 then?

19 JUROR McKINNON: Yeah.

20 MS. JOHNSON: Who is he closest to in your
21 family?

22 JUROR McKINNON: My grandfather.

23 MS. JOHNSON: Have you talked to him at all about
24 parties involved in this case or the store involved in
25 this case?

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1 JUROR McKINNON: No.

2 MS. JOHNSON: Do you have any personal knowledge
3 of that computer store?

4 JUROR McKINNON: No.

5 MS. JOHNSON: He is listed by the defense as a
6 witness, so if you were to find the Defendant guilty and
7 he were to disagree with that, would that cause you a
8 problem the next time you see him?

9 JUROR McKINNON: Possibly.

10 MS. JOHNSON: Okay. Do you have -- can you
11 explain that?

12 JUROR McKINNON: I guess I really don't know how.
13 It'd be awkward.

14 MS. JOHNSON: Would that be on your mind if you
15 were sitting as a juror?

16 JUROR McKINNON: Yes.

17 MS. JOHNSON: Okay. Would that be on your mind
18 as you're deliberating in the back?

19 JUROR McKINNON: (Inaudible.)

20 MS. JOHNSON: Okay, thank you.

21 THE COURT: Any questions, Ms. Baker?

22 MS. BAKER: Mr. McKinnon, when was the last time
23 you saw Mr. VanHook?

24 JUROR McKINNON: Beginning of summer.

25 MS. BAKER: So a few months now? Do you see him

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1 once or twice a year or how often?

2 JUROR McKINNON: I think a few times a year.
3 He's part of my grandpa's company. He was part of it back
4 in the days. He's really close friends with my grandpa.

5 MS. BAKER: Okay. So when you see your grandpa,
6 is that when you see Mr. VanHook?

7 JUROR McKINNON: He'll come into work sometimes
8 and stuff.

9 MS. BAKER: Do you work with your grandpa?

10 JUROR McKINNON: Yeah, I work at the family
11 business.

12 MS. BAKER: The screen printing business?

13 JUROR McKINNON: It's all kinds of graphic stuff
14 and it's not just screen printing, but, yes.

15 MS. BAKER: Okay. I was just reading your jury
16 questionnaire. That's all. I think that's what I saw
17 written down. That was my note at least. So when you are
18 seeing him just a couple times a year, you're saying that
19 that relationship would color your ability to sit here and
20 listen to testimony?

21 JUROR McKINNON: I -- well, I guess I look at him
22 like as a uncle, so he's always just, I don't know, I look
23 him as a leader, I guess.

24 MS. BAKER: Okay, all right. Thank you.
25 Appreciate it.

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1 THE COURT: Okay. Any challenges for cause, Ms.
2 Baker?

3 MS. BAKER: We would thank and -- or we would
4 challenge for cause Ms. Osborn in seat number six.

5 THE COURT: Position on that, Ms. --

6 MS. JOHNSON: No, your Honor.

7 THE COURT: Pardon?

8 MS. JOHNSON: No, I'm not taking a position.

9 THE COURT: Okay. Ms. Osborn, you're excused for
10 cause. Thank you.

11 THE CLERK: Michelle Johnson.

12 THE COURT: Okay, Ms. Johnson. Are you
13 acquainted with anyone involved in the case?

14 JUROR JOHNSON: No.

15 THE COURT: Did you hear all the questions that
16 were asked of the other folks?

17 JUROR JOHNSON: Yes.

18 THE COURT: Is there any question that was raised
19 that would cause you to not be fair and impartial here?

20 JUROR JOHNSON: No.

21 THE COURT: Okay. You feel you can be fair and
22 impartial to both sides?

23 JUROR JOHNSON: Yes.

24 THE COURT: Pardon?

25 JUROR JOHNSON: Yes. I'm nervous; sorry.

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1 THE COURT: That's okay. I just want to make
2 sure I heard you. You said you could be.

3 JUROR JOHNSON: Yes.

4 THE COURT: Okay, thank you, ma'am. Ms. Johnson,
5 anything?

6 MS. JOHNSON: Thank you, your Honor. Good
7 morning, Ms. Johnson. We're not related.

8 JUROR JOHNSON: No, we're not.

9 MS. JOHNSON: Have you or anybody close to you
10 ever been either a victim of a sexual crime or accused of
11 a sexual crime?

12 JUROR JOHNSON: Uhm, one of my friends, we're not
13 close anymore, but when she was 12 she was sexually
14 assaulted.

15 MS. JOHNSON: Okay. Did you talk to her about
16 the facts of what had happened?

17 JUROR JOHNSON: No.

18 MS. JOHNSON: Okay. How did you find out about
19 it?

20 JUROR JOHNSON: Our moms are good friends, so I
21 heard about it from my mom.

22 MS. JOHNSON: Okay. So you were friends with her
23 back when it had happened?

24 JUROR JOHNSON: Yeah.

25 MS. JOHNSON: Okay. And you never talked to her

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1 about it; right?

2 JUROR JOHNSON: No, 'cause I was 12 so it's one
3 of those things, I guess, you don't really want to talk
4 about it.

5 MS. JOHNSON: I can understand that. Do you know
6 anything about whether that person was arrested or went
7 through the court process?

8 JUROR JOHNSON: Yes.

9 MS. JOHNSON: Are you aware of anything involved
10 with that?

11 JUROR JOHNSON: Uhm, I mean I know what happened
12 to him.

13 MS. JOHNSON: Okay. Do you think she was treated
14 fairly throughout the process?

15 JUROR JOHNSON: Yes.

16 MS. JOHNSON: You think the process worked in
17 that case?

18 JUROR JOHNSON: Uh-huh.

19 MS. JOHNSON: Okay. Is there anything about that
20 that you would not be able to set aside as you sit here?

21 JUROR JOHNSON: I mean, it's hard, I mean
22 hearing, you know, just what we know but I'd like to think
23 that I can be partial?

24 MS. JOHNSON: Impartial.

25 JUROR JOHNSON: Impartial, yeah. Not partial.

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1 I'm sorry.

2 MS. JOHNSON: Do you know what her relationship
3 was to the person who did that to her?

4 JUROR JOHNSON: Uhm, they weren't related.

5 MS. JOHNSON: They were not, okay.

6 JUROR JOHNSON: No.

7 MS. JOHNSON: Was it a close friend or more of an
8 acquaintance; do you know?

9 JUROR JOHNSON: It was in the bathroom in K-Mart.

10 MS. JOHNSON: So like a stranger?

11 JUROR JOHNSON: So it was a stranger.

12 MS. JOHNSON: Oh, okay, okay. So really not
13 similar to the facts or the relationship here at all?

14 JUROR JOHNSON: (Indistinguishable.)

15 MS. JOHNSON: Do you think all vict -- would you
16 expect all victims to react the same way your friend did?

17 JUROR JOHNSON: I don't know.

18 MS. JOHNSON: Okay. If you see differences
19 between the victim who testifies and your friend, would
20 you assume that the victim's lying?

21 JUROR JOHNSON: No.

22 MS. JOHNSON: Now did you hear the conversation
23 about testimonial evidence only, that really all of the
24 evidence is going to come from witnesses?

25 JUROR JOHNSON: Yes.

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1 MS. JOHNSON: Is that going to be enough to prove
2 a case to you beyond a reasonable doubt or are you going
3 to say, you know, Christina, no, you need to give me
4 something that I can hold and say this is evidence?

5 JUROR JOHNSON: I don't know. I mean I -- we, of
6 course, have to because there isn't any, you know,
7 physical evidence but it's hard, you know. How do you
8 take your opinion out of that? So I think, you know -- I
9 think I can. I just don't know, you know. I guess I'd
10 have to think about how exactly to do that, you know,
11 because you're just hearing opinions, you know.
12 Everyone's saying what they think.

13 MS. JOHNSON: Are you comfortable deciding if
14 somebody's telling the truth?

15 JUROR JOHNSON: I never really thought about it
16 until today, so I guess yes. I never had to think about
17 it before, so ...

18 MS. JOHNSON: Have you ever been lied to?

19 JUROR JOHNSON: Yes.

20 MS. JOHNSON: And how did you know you were being
21 lied to?

22 JUROR JOHNSON: Hmmm. I guess maybe you hear
23 from other people and then you find out from the person
24 that they lied to you (inaudible.)

25 MS. JOHNSON: You confronted the person who lied

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1 to you or you talked to them about it?

2 JUROR JOHNSON: I guess more I would just avoid
3 them, I guess?

4 MS. JOHNSON: Okay.

5 JUROR JOHNSON: His view. I guess -- so I guess
6 maybe then I'm assuming that they lied. You're right.

7 MS. JOHNSON: Okay. So you've never had an
8 instance where you've talked -- caught somebody in a lie
9 or confronted them about a lie?

10 JUROR JOHNSON: I'm sure I have. I just can't
11 think of a time right off the top of my head.

12 MS. JOHNSON: Okay. Have you ever been in a
13 mental hospital or a jail?

14 JUROR JOHNSON: No.

15 MS. JOHNSON: Let me just look real quickly at
16 some notes I have. What's your degree in?

17 JUROR JOHNSON: Health management.

18 MS. JOHNSON: Do you work closely with doctors
19 and nurses?

20 JUROR JOHNSON: I work in a dentist's office.

21 MS. JOHNSON: A dentist's office, okay. Okay.
22 That's all the questions I have for you. Thank you.

23 THE COURT: Ms. Baker?

24 MS. BAKER: Thank you. Ms. Johnson, did you hear
25 my questions?

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1 JUROR JOHNSON: Yes.

2 MS. BAKER: Do you have any answers that we
3 should talk about?

4 JUROR JOHNSON: No.

5 MS. BAKER: Any concerns that you have about
6 sitting as a juror here today?

7 JUROR JOHNSON: I think it will be hard to hear,
8 you know, what people have to say but other than that I
9 can't think of anything.

10 MS. BAKER: When you say it'll be hard to hear
11 it, do you think that is going to prevent you from
12 listening closely?

13 JUROR JOHNSON: No. I think it makes you listen
14 more closely because you want to, you know, try to hear
15 from that what's right and what's not.

16 MS. BAKER: All right. Thank you.

17 THE COURT: The jury's with the People for cause.

18 MS. JOHNSON: Your Honor, the People would move
19 to strike Mr. McKinnon in seat number two for cause based
20 on his relationship with a defense witness. He described
21 him as like an uncle, and he (indistinguishable.)

22 MS. BAKER: I'll leave it to the Court's
23 discretion.

24 THE COURT: Okay. Mr. McKinnon, thank you, sir.
25 You're excused for cause. You will be called tomorrow for

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1 jury service so please call this evening.

2 THE CLERK: Kathy Dawson.

3 THE COURT: Ms. Dawson, are you acquainted with
4 anybody involved in the case?

5 JUROR DAWSON: No.

6 THE COURT: Did you hear all the questions that
7 were asked by the attorneys?

8 JUROR DAWSON: Yes.

9 THE COURT: Is there anything that was brought up
10 in those questions that would cause you to be less than
11 fair and impartial for these sides here?

12 JUROR DAWSON: I don't think so. I think I could
13 be fair and impartial.

14 THE COURT: Okay, thank you, ma'am. That's all
15 we're looking for. Did you have anything, Ms. Johnson?

16 MS. JOHNSON: Yes, your Honor. Ms. Dawson, have
17 you or anybody close to you ever been a victim of or
18 accused of a sexual crime?

19 JUROR DAWSON: I babysat for a little girl who
20 was abused by her adopted father.

21 MS. JOHNSON: Okay. How did you find out about
22 that?

23 JUROR DAWSON: They arrested the father at work.

24 MS. JOHNSON: Did you talk with her mother or
25 anybody close to the case about what had happened?

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1 JUROR DAWSON: Well, we followed the case.

2 MS. JOHNSON: You did.

3 JUROR DAWSON: And I no longer baby -- had
4 babysat for her.

5 MS. JOHNSON: Okay.

6 JUROR DAWSON: And this happened when she was
7 more like a teenager.

8 MS. JOHNSON: Okay. Are you going to be able to
9 set that aside and listen to the testimony and evidence in
10 this case?

11 JUROR DAWSON: I think so.

12 MS. JOHNSON: Okay. I know that -- the issue
13 that we've talked about with a couple of people about
14 testimonial versus physical evidence, sorry I gotta get
15 behind the microphone, would you be able to judge a case
16 based on testimonial evidence only?

17 JUROR DAWSON: You know, you see all these shows,
18 I follow Criminal Minds.

19 MS. JOHNSON: Okay.

20 JUROR DAWSON: And they always have lots of
21 evidence or they have to prove the evidence or whatever.
22 So never being involved in a court before, that sticks in
23 my head, you know, evidence, physical evidence.

24 MS. JOHNSON: Would you agree that those TV shows
25 are some based on reality but also some Hollywood magic

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1 stuff?

2 JUROR DAWSON: Yes.

3 MS. JOHNSON: Okay. Do you know how much is real
4 and how much fake?

5 JUROR DAWSON: No. I also believe in God but
6 I've never seen him either, so ...

7 MS. JOHNSON: Okay. But my point is you don't
8 know how much of it's real and how much of it's not;
9 right?

10 JUROR DAWSON: Right.

11 MS. JOHNSON: So can you agree to leave any
12 assumptions that those shows give you outside of the
13 courtroom?

14 JUROR DAWSON: Yes.

15 MS. JOHNSON: Okay, and listen to the testimony
16 and the evidence as it comes in here. And if an expert
17 witness, a doctor, were to say something different than
18 what you've seen on those shows, would that cause you to
19 disbelieve the doctor or would you keep an open mind as to
20 what the doctor was saying or the expert witness?

21 JUROR DAWSON: Well, I respect the physician
22 because of his knowledge; however, they're not always
23 right either, so ...

24 MS. JOHNSON: Are you -- would you be skeptical
25 of an expert witness or would you listen to them with an

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1 open mind and decide for yourself if you believe them?

2 JUROR DAWSON: What determines an expert witness?

3 MS. JOHNSON: Well, you're gonna hear
4 qualifications and it's up to you to decide whether you
5 think they're an expert.

6 JUROR DAWSON: Okay. So it's not because of
7 their degree or --

8 MS. JOHNSON: Uhm, I'm not sure how much I can
9 answer of what you're asking. I'm just -- are you willing
10 to listen with an open mind and decide whether you believe
11 them is what I'm looking for.

12 JUROR DAWSON: Yes.

13 MS. JOHNSON: Okay. You are, okay. Now back to
14 the idea of testimonial evidence. If you believe, and I'm
15 asking you to assume that you believe the witnesses, okay,
16 for this and if what they say proves the elements, will
17 you be able to render a guilty verdict based on testimony
18 alone or will you require me to bring in something you can
19 hold, something you can see?

20 JUROR DAWSON: No, I don't have to have anything
21 to hold or to see.

22 MS. JOHNSON: Okay.

23 JUROR DAWSON: That just seems -- it does seem --
24 I mean, I don't know if you can answer this for me. It
25 does seem if you're going to accuse somebody of something

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1 that you should have --

2 MS. JOHNSON: Okay. So your answer to my question
3 is no, even if you believed them you wouldn't be able
4 to --

5 JUROR DAWSON: No. Like I said, it's -- it would
6 determine, I guess. You'd have to hear all the facts
7 first before you could make that assumption.

8 MS. JOHNSON: I'm asking you if you believed
9 them. If you hear everything and if you believe --

10 JUROR DAWSON: Without any physical evidence?

11 MS. JOHNSON: Without any physical evidence.

12 JUROR DAWSON: If I believed them?

13 MS. JOHNSON: Yes.

14 JUROR DAWSON: Yes.

15 MS. JOHNSON: Okay. And it's up to you to
16 determine why and how you believe them.

17 JUROR DAWSON: Beyond a reasonable doubt.

18 MS. JOHNSON: Beyond a reasonable doubt, but if
19 you believed them, words alone can reach beyond a
20 reasonable doubt for you?

21 JUROR DAWSON: It'd have to be beyond a
22 reasonable doubt.

23 MS. JOHNSON: Well, of course, everything for
24 guilty verdict does. Okay. Okay, thank you.

25 THE COURT: Okay. Ms. Baker, any questions?

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1 MS. BAKER: No, I have no questions for this
2 witness -- or excuse me, this juror.

3 THE COURT: Okay. Any challenges for cause by
4 the Defendant?

5 MS. BAKER: We would challenge for cause Mr.
6 Sturgeon, number 13.

7 THE COURT: Okay. Your basis?

8 MS. BAKER: He indicated he would not be able to
9 sit here fairly based on his relationship with a prior
10 victim.

11 THE COURT: Okay. Any comment you want to have,
12 Ms. Johnson?

13 MS. JOHNSON: No, your Honor.

14 THE COURT: Okay, thank you, Mr. Sturgeon.
15 You're excused.

16 THE CLERK: Karen Geller.

17 THE COURT: Okay, Ms. Geller. Have you heard all
18 the questions?

19 JUROR GELLER: Yes, sir.

20 THE COURT: Are you acquainted with anybody
21 involved in the case?

22 JUROR GELLER: No.

23 THE COURT: Are you aware of any reason based on
24 these questions why you couldn't be fair and impartial?

25 JUROR GELLER: No.

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1 THE COURT: Okay, thank you. Ms. Johnson, any
2 questions?

3 MS. JOHNSON: Your last name is Geller, with a G?

4 JUROR GELLER: Yes. I probably am on there as
5 Webster. I recently got married.

6 MS. JOHNSON: Thank you. Have you or anyone
7 close to you ever been a victim or accused of a sexual
8 crime?

9 JUROR GELLER: No.

10 MS. JOHNSON: You've heard me talk with a couple
11 people about the idea of testimonial versus physical
12 evidence. If you believe the testimony, would that be
13 enough for you to return a guilty verdict if it meets the
14 elements beyond a reasonable doubt or would you need --

15 JUROR GELLER: Yes.

16 MS. JOHNSON: Yes?

17 JUROR GELLER: Yes.

18 MS. JOHNSON: Okay. What's your degree in?

19 JUROR GELLER: Food science.

20 MS. JOHNSON: Have you ever been in a jail or a
21 mental institution for any reason?

22 JUROR GELLER: Just as a visitor.

23 MS. JOHNSON: To which one?

24 JUROR GELLER: Ionia.

25 MS. JOHNSON: To jail or --

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1 JUROR GELLER: Yeah. It was actually part of a
2 class. When I was in college we spent part of the day
3 there.

4 MS. JOHNSON: Okay.

5 MS. GELLER: That's it.

6 MS. JOHNSON: So no professional reason other
7 than a class to be there?

8 MS. GELLER: No, no.

9 MS. JOHNSON: Okay. Thank you.

10 THE COURT: Ms. Baker, any questions?

11 MS. BAKER: Yes, thank you. Congratulations on
12 your marriage.

13 JUROR GELLER: Thank you.

14 MS. BAKER: Ms. Geller, do you have any strong
15 feelings about the nature of this case?

16 JUROR GELLER: Uhm, like many other jurors have
17 said, it's upsetting. I do have a 17-year-old daughter.

18 MS. BAKER: Okay. Is that going to color your
19 view of the testimony here?

20 JUROR GELLER: I don't think so.

21 MS. BAKER: All right. Is she like Ms. Walters,
22 whose daughter doesn't lie or is she like somebody else's?

23 JUROR GELLER: I had to laugh because my daughter
24 is also a straight A student, a good kid, but I am sure
25 she has told some falsehoods that I just haven't caught

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1 her in.

2 MS. BAKER: Okay, all right. Have you caught her
3 in some?

4 JUROR GELLER: No, really I haven't.

5 MS. BAKER: Oh, okay.

6 JUROR GELLER: Unless maybe I -- maybe when she
7 was tiny and, you know, little kids. No, I didn't do that
8 but (indistinguishable.)

9 MS. BAKER: Do you think that a child would -- do
10 you think that a child would not lie about a sexual act?

11 JUROR GELLER: Would not lie? I -- ooh, that's
12 hard. Uhm, I think they could if there were certain
13 circumstances.

14 MS. BAKER: Okay. What do you think those
15 circumstances would be?

16 JUROR GELLER: Well, there was a case, uhm, uhm,
17 in Montague a few years ago where somebody accused another
18 person and I know -- I knew the people a bit, not -- I
19 mean, just kind of as acquaintances and have a sister who
20 works at the school and, you know, you hear the
21 scuttlebutt there, and they felt that the young man was
22 falsely accused.

23 MS. BAKER: Okay.

24 JUROR GELLER: But -- so is it possible that
25 someone lies? Sure.

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1 MS. BAKER: Okay. I think I know which case
2 you're talking about. It was quite newsworthy at the
3 time.

4 JUROR GELLER: Yeah, it was. It was --

5 MS. BAKER: Yes. Especially in Montague, I
6 think.

7 JUROR GELLER: Yeah.

8 MS. BAKER: Yep. I remember. Thank you. I
9 appreciate your candor here today. Thanks.

10 THE COURT: Any challenges for cause? Okay, the
11 jury is with the People for --

12 MS. JOHNSON: Wait, Judge, I do have a challenge
13 for cause. I just wasn't sure which side you were asking.

14 THE COURT: Okay.

15 MS. JOHNSON: The juror in seat number 10, Ms.
16 Denio, based on her statement that testimony alone is not
17 enough for a conviction or for proof beyond a reasonable
18 doubt.

19 THE COURT: If I instruct you, Ms. Denio, that
20 the testimony of one witness alone, if believed, can be
21 enough to establish all of the elements of the offense,
22 will you follow that instruction?

23 JUROR DENIO: Yes, sir.

24 THE COURT: Okay. Your motion is denied. Any
25 challenges for cause?

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1 MS. BAKER: Yes. We would challenge Ms. Shanty
2 in number 7.

3 THE COURT: Okay. And reason?

4 MS. BAKER: She indicated that her relationship
5 with another victim of a criminal sexual conduct case
6 would color her ability to sit here.

7 MS. JOHNSON: I heard the same.

8 THE COURT: Okay. You may stand down. Thank
9 you.

10 THE CLERK: Joshua Glerum.

11 THE COURT: Mr. Glerum, have you heard all the
12 questions?

13 JUROR GLERUM: Yes, I have.

14 THE COURT: Is there anybody that you're
15 acquainted with in the case?

16 JUROR GLERUM: Nope.

17 THE COURT: Are you aware of any reason why you
18 could not be fair and impartial based on these questions?

19 JUROR GLERUM: No, sir.

20 THE COURT: Okay, thank you. Any questions, Ms.
21 Johnson?

22 MS. JOHNSON: Thank you, your Honor. Sir, have
23 you or anybody close to you been the victim of a sexual
24 crime or accused of a sexual crime?

25 JUROR GLERUM: No.

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1 MS. JOHNSON: Okay. And the issue of testimonial
2 versus physical evidence, if you know there is nothing for
3 you to hold, no physical evidence for you to see, only
4 testimony, if you believe that testimony, is that enough
5 to prove a case to you beyond a reasonable doubt?

6 JUROR GLERUM: I believe so.

7 MS. JOHNSON: Okay. Have you ever been in a jail
8 or a mental hospital for any reason, as a visitor or
9 anything?

10 JUROR GLERUM: No.

11 MS. JOHNSON: Thank you.

12 THE COURT: Okay. Any questions, Ms. Baker?

13 MS. BAKER: Just, Mr. Glerum, did you hear my
14 questions?

15 JUROR GLERUM: I did.

16 MS. BAKER: I saw you -- you were sitting in the
17 front row so you were pretty close.

18 JUROR GLERUM: Front and center.

19 MS. BAKER: Lucky. You were one of the last to
20 come in.

21 JUROR GLERUM: It's awesome.

22 MS. BAKER: You're a teacher; correct?

23 JUROR GLERUM: I am.

24 MS. BAKER: All right. Did any of my questions
25 prompt any thoughts in your mind that you felt you should

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1 bring them up here?

2 JUROR GLERUM: No. I think like everybody else.
3 I -- you hear some of the charges and you -- and
4 accusations and you cringe a little bit, but other than
5 that, no.

6 MS. BAKER: Okay. Is your employment going to be
7 okay with you being on jury duty?

8 JUROR GLERUM: Uhm, I'm also the athletic
9 director, so I realize it's my civic responsibility to
10 serve and that's something that I take really seriously,
11 uhm, but at the same time would -- would we have to do
12 some shuffling around? Yes.

13 MS. BAKER: Okay. Do you have some activities
14 that are scheduled in the afternoons this week?

15 JUROR GLERUM: Yeah, every day.

16 MS. BAKER: Every day, okay. And what time are
17 those scheduled for?

18 JUROR GLERUM: Today we've got two volleyball
19 games, we've got a home cross country meet and two soccer
20 games.

21 MS. BAKER: A busy day, huh? You're the director
22 of the entire athletic department at this school?

23 JUROR GLERUM: Western Michigan Christian.

24 MS. BAKER: So would that create a burden on your
25 employer?

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1 JUROR GLERUM: They get subs every day. Uhm,
2 would it be challenging for them? Yeah, probably. Is it
3 too much to ask from them? No, probably not. We could
4 work it out.

5 MS. BAKER: Okay. Thank you for your candor.

6 THE COURT: Okay. Any challenges for cause, Ms.
7 Baker?

8 MS. BAKER: Mine was the last challenge for
9 cause, but if you --

10 THE COURT: Okay. Ms. Johnson, any challenges
11 for cause?

12 MS. JOHNSON: No, your Honor.

13 THE COURT: Okay. Ms. Baker, any cause
14 challenges?

15 MS. BAKER: No, not for cause.

16 THE COURT: The jury's with the People
17 peremptorily.

18 MS. JOHNSON: The People would thank and excuse
19 the juror in seat number 2, Ms. Dawson.

20 THE COURT: Okay. Ms. Dawson, you may stand
21 down. Thank you.

22 THE CLERK: Michael Haver.

23 THE COURT: Okay, Mr. Haver. Have you heard all
24 the questions that were asked?

25 JUROR HAVER: Yep, yes.

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1 THE COURT: Okay. Are you acquainted with
2 anybody involved in the case?

3 JUROR HAVER: No.

4 THE COURT: Are you aware of based on these
5 questions of any reason why you could not be fair and
6 impartial?

7 JUROR HAVER: No.

8 THE COURT: Okay. Any questions, Ms. Johnson?

9 MS. JOHNSON: Thank you, your Honor. Mr. Haver,
10 have you or anybody close to you ever been a victim or
11 accused of a sexual crime?

12 JUROR HAVER: (Inaudible.)

13 MS. JOHNSON: You've heard us talk about the
14 testimonial versus physical evidence now a number of
15 times, but it's one I feel I need to ask again. If you
16 believed the testimony that comes from the witness stand
17 and it proves each of the elements beyond a reasonable
18 doubt to you, are you comfortable returning a guilty
19 verdict without physical evidence?

20 JUROR HAVER: Yeah.

21 MS. JOHNSON: All right. If an expert says
22 something that's contrary to something you believe, do you
23 have an open mind to hear something like that? Can you
24 answer out loud?

25 JUROR HAVER: Yes.

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1 MS. JOHNSON: Okay, thank you.

2 THE COURT: Ms. Baker?

3 MS. BAKER: Mr. Haver, did you hear all of my
4 questions?

5 JUROR HAVER: Yes.

6 MS. BAKER: Did you -- did any of my questions
7 prompt any thoughts to discuss that with me now?

8 JUROR HAVER: No.

9 MS. BAKER: Okay, thank you.

10 THE COURT: Okay. If there's no challenge for
11 cause, the jury is with the Defendant.

12 MS. BAKER: We would thank and excuse Ms. Walters
13 in seat 11.

14 THE COURT: Ms. Walters, thank you. You may
15 stand down.

16 THE CLERK: Karen Selby.

17 THE COURT: Okay. Ms. Selby, are you acquainted
18 with anyone involved in the case?

19 JUROR SELBY: No, I'm not.

20 THE COURT: Based on the questions that were
21 asked, are you aware of any reason why you could not be
22 fair and impartial?

23 JUROR SELBY: Uhm, the fact that I've worked in
24 the police department and register sex offenders every day
25 might make it a little bit hard for me to be impartial.

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1 THE COURT: Okay. Well, it may be hard for
2 everybody, but can you be fair and impartial? That's the
3 question.

4 JUROR SELBY: I would do my best, yes.

5 THE COURT: Okay. Any questions, Ms. Johnson?

6 MS. JOHNSON: Good morn -- or good afternoon I
7 guess now. What do you do at Norton Shores Police?

8 MS. SELBY: I'm a clerk. I make up court files,
9 register sex offenders, take phone calls, take some
10 (indistinguishable.)

11 MS. JOHNSON: Do you interact with the police
12 officers?

13 JUROR SELBY: Yes.

14 MS. JOHNSON: Okay. Do you think you would be
15 able to judge an officer who was testifying the same as
16 you would any other witness and decide for yourself
17 whether they were believable or do you think because
18 they're a police officer you would automatically believe
19 them just a little more?

20 JUROR SELBY: I would be impartial.

21 MS. JOHNSON: Okay. Uhm, I just want a yes or a
22 no to this one. Do you know the penalty for this crime?
23 Yes or no only.

24 JUROR SELBY: No.

25 MS. JOHNSON: Okay. Have you or anybody close to

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1 you ever been a victim or accused of a sexual crime?

2 JUROR SELBY: I have a niece that was a victim
3 and I have a girlfriend who's daughter was a victim.

4 MS. JOHNSON: Okay. How much do you know about
5 each of those cases or incidents?

6 JUROR SELBY: It's been a while for both of them,
7 so, uhm, I knew at the time pretty much, but I don't
8 remember all of it.

9 MS. JOHNSON: Okay. Would you be able to set
10 that aside and listen to the testimony and decide if you
11 believe what's being said today or this week?

12 JUROR SELBY: Yes.

13 MS. JOHNSON: Okay. If a victim were to act --
14 do you have an idea of how every victim should act in a
15 sex case?

16 JUROR SELBY: No.

17 MS. JOHNSON: Do you think they all act the same?

18 JUROR SELBY: No. (Indistinguishable.)

19 MS. JOHNSON: Okay. And if you only hear
20 testimony and there's no physical evidence, if you believe
21 that, is that enough for you to return a guilty verdict if
22 it's proven beyond a reasonable doubt all of the elements?

23 JUROR SELBY: (Inaudible.)

24 MS. JOHNSON: Thank you.

25 THE COURT: Okay, Ms. Baker, any questions?

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1 MS. BAKER: Thank you. Hi. How are you?

2 JUROR SELBY: I'm good.

3 MS. BAKER: Good. I don't think that we've
4 formally met, but I recall reading your name in multiple
5 police reports coming out of Norton Shores Police
6 Department.

7 JUROR SELBY: I've been there a long time.

8 MS. BAKER: So you have as part of your job
9 duties, one of the things that you do is enter things into
10 a police report; correct?

11 JUROR SELBY: Yes.

12 MS. BAKER: And the things that you enter into
13 the police report are either things that are reported to
14 you by civilians or the police officers; correct?

15 JUROR SELBY: Generally civilians.

16 MS. BAKER: Okay. So you are part of that
17 investigative process for the police department; correct?

18 JUROR SELBY: I wouldn't say the investigative
19 process. I would never do, like, follow-ups on any
20 reports. I would take the information, statement from the
21 person and write it up, but if it needed follow-up, it
22 would go to an officer to follow up.

23 MS. BAKER: Do you think that that part of your
24 employment or your work through the police department
25 might interfere with your ability to listen fairly to the

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1 evidence?

2 JUROR SELBY: I don't think so. I'm non-
3 judgmental.

4 MS. BAKER: Okay, thank you.

5 THE COURT: There's no challenge for cause --
6 well, is there any challenge for cause at this time?

7 MS. JOHNSON: No, your Honor.

8 MS. BAKER: No, your Honor.

9 THE COURT: Okay. There being none, the
10 Defendant -- or pardon me -- the jury is with the People.

11 MS. JOHNSON: The People would thank and excuse
12 the juror in seat number 10, Ms. Denio.

13 THE COURT: Ms. Denio, you may stand down. Thank
14 you.

15 THE CLERK: Christina Coldise Clark.

16 THE COURT: Ms. Clark, have you heard all the
17 questions that were asked?

18 JUROR CLARK: Yes, sir.

19 THE COURT: Are you acquainted with anyone
20 involved in the case?

21 JUROR CLARK: No, I'm not.

22 THE COURT: Are you aware of any reason why you
23 could not be fair and impartial?

24 JUROR CLARK: I don't think so.

25 THE COURT: Okay. Ms. Johnson, anything?

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1 MS. JOHNSON: Thank you. It says you used to be
2 professor?

3 JUROR CLARK: Yes.

4 MS. JOHNSON: What did you teach?

5 JUROR CLARK: Food science.

6 MS. JOHNSON: Okay. Have you or anyone close to
7 you ever been the victim or accused of a sexual crime?

8 JUROR CLARK: No.

9 MS. JOHNSON: And if an expert were to come in
10 and say something different than something you kind of
11 have always thought, would you be open to hearing
12 differently from an expert if it's a field you're not an
13 expert in?

14 JUROR CLARK: I believe so.

15 MS. JOHNSON: Okay. And now we've talked about
16 this testimonial thing with everyone. Do you think you
17 can jud -- if you believe it, can return a guilty verdict
18 based on testimony only?

19 JUROR CLARK: I believe so.

20 MS. JOHNSON: Okay, thank you.

21 THE COURT: Questions, Ms. Baker?

22 MS. BAKER: Did you hear all of my questions?

23 JUROR CLARK: I believe so.

24 MS. BAKER: And did any of them prompt any
25 thoughts that we should discuss your answers?

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1 JUROR CLARK: No.

2 MS. BAKER: Okay. Were they similar to the other
3 people who are seated up --

4 JUROR CLARK: Sure, sure. The nature of the case
5 is disturbing, but I would like to think I'm impartial,
6 so ...

7 MS. BAKER: Okay, thank you.

8 THE COURT: Okay. If there's no cause
9 challenges, the jury is with the Defendant.

10 MS. BAKER: We would thank and excuse Ms.
11 Anthony, the 9 --

12 THE COURT: Ms. Anthony, thank you. You may
13 stand down.

14 THE CLERK: Jill Ann Kevy.

15 THE COURT: Is it Kevy; is that correct?

16 JUROR KEVY: Kevy.

17 THE COURT: Kevy? Ms. Kevy, have you heard all
18 the questions?

19 JUROR KEVY: Yes.

20 THE COURT: Are you acquainted with anyone
21 involved in the case?

22 JUROR KEVY: No.

23 THE COURT: Are you aware of any reason why you
24 could not be fair and impartial?

25 JUROR KEVY: I had a cousin that was charged with

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1 a mol -- somewhat similar crime, exposure, and he owned a
2 small store with a clerk that worked for him.

3 THE COURT: Okay. Well, that's a totally
4 different set of facts and circumstances. Could you be
5 fair and impartial in this case?

6 JUROR KEVY: I'd try to.

7 THE COURT: Okay. Ms. Johnson, any questions?

8 MS. JOHNSON: Thank you. How long ago was that?

9 JUROR KEVY: Probably about 15, maybe 18 years
10 ago.

11 MS. JOHNSON: Okay. And did you talk to your
12 cousin during the pendency of that case?

13 JUROR KEVY: No, he lived in a different city.

14 MS. JOHNSON: Okay, all right. You've heard my
15 questions about testimonial versus physical evidence to
16 the other jurors. What would your answer be on that?

17 JUROR KEVY: That I would -- I'm a scientist by
18 nature. I evaluate a lot of information like that. I
19 used to work for the state as an investigator so, I mean,
20 I understand the difference between testimony and physical
21 evidence, so that should be (inaudible.)

22 MS. JOHNSON: Okay. If there's no physical
23 evidence, could you just make a decision based on
24 testimonial evidence alone if you believed it?

25 JUROR KEVY: Yes.

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1 MS. JOHNSON: And then the similar question I
2 asked to the engineer then. There is no formula for this.
3 There is no exact science. It's a do you believe it, do
4 you believe it beyond a reasonable doubt.

5 JUROR KEVY: Uh-huh.

6 MS. JOHNSON: Is that something you'd be
7 comfortable doing?

8 JUROR KEVY: I -- I think I could.

9 MS. JOHNSON: Okay. Do you understand it's not a
10 beyond any doubt standard?

11 JUROR KEVY: Yeah.

12 MS. JOHNSON: Okay, thank you.

13 THE COURT: Any questions, Ms. Baker?

14 MS. BAKER: No questions. Thank you.

15 THE COURT: Okay. If there's no challenges for
16 cause, the jury is back with the Defendant.

17 MS. BAKER: Nope, the People, I think.

18 THE COURT: I'm sorry, you're right, with the
19 People. Thank you.

20 MS. JOHNSON: The People would thank and excuse
21 the juror in seat number 6, Ms. Johnson.

22 THE COURT: Ms. Johnson, thank you. You may
23 stand down.

24 THE CLERK: Joseph Kammaraad.

25 THE COURT: Mr. Kammaraad, have you heard all the

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1 questions?

2 JUROR KAMMARAAD: Yes, sir.

3 THE COURT: Are you acquainted with anybody
4 involved in the case?

5 JUROR KAMMARAAD: Not that I'm aware of.

6 THE COURT: Are you aware of any reason why you
7 could not be fair and impartial?

8 JUROR KAMMARAAD: Not at all.

9 THE COURT: Okay. Ms. Johnson, anything?

10 MS. JOHNSON: Thank you, your Honor. Sir, I see
11 from your questionnaire that you do have a misdemeanor
12 conviction.

13 JUROR KAMMARAAD: Yes.

14 MS. JOHNSON: How long ago was that?

15 JUROR KAMMARAAD: Back in early '90s, late '80s.

16 MS. JOHNSON: Quite a while then.

17 JUROR KAMMARAAD: Yeah.

18 MS. JOHNSON: Was that here in Muskegon?

19 JUROR KAMMARAAD: Yes.

20 MS. JOHNSON: Is there anything about that case
21 that you are still holding onto that we should know about?

22 JUROR KAMMARAAD: Oh, no, not at all.

23 MS. JOHNSON: Okay. Did you think you were
24 treated fairly?

25 JUROR KAMMARAAD: Oh, yeah.

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1 MS. JOHNSON: Anyone close to you or yourself
2 ever been the victim or accused of a sexual crime?

3 JUROR KAMMARAAD: Nobody at all that I know.

4 MS. JOHNSON: Okay. And what would your answer
5 be regarding my question about testimonial versus physical
6 evidence?

7 JUROR KAMMARAAD: I could base my decision on
8 either.

9 MS. JOHNSON: Okay. So testimony alone you can
10 base your decision on?

11 JUROR KAMMARAAD: Yes.

12 MS. JOHNSON: Okay. And are you open-minded to
13 listening to an expert testify?

14 JUROR KAMMARAAD: Sure

15 MS. JOHNSON: Okay, thank you.

16 THE COURT: Ms. Baker, anything?

17 MS. BAKER: Thank you. Mr. Kammaraad, did you
18 hear my questions?

19 JUROR KAMMARAAD: I did.

20 MS. BAKER: And did any of them prompt any
21 thoughts that we need to discuss then?

22 JUROR KAMMARAAD: No, not at all.

23 MS. BAKER: And if I asked you right now whether
24 or what -- whether Mr. Rainbolt is guilty, what is your
25 answer?

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1 JUROR KAMMARAAD: I would say no, not that I -- I
2 would need to hear information, you know, before I can
3 make that judgment.

4 MS. BAKER: It would have to be proven beyond a
5 reasonable doubt, according to the instructions from the
6 Judge; correct?

7 JUROR KAMMARAAD: Yes, yes.

8 MS. BAKER: Okay. Are you able to continue his
9 presumption of innocence throughout this case?

10 JUROR KAMMARAAD: I am.

11 MS. BAKER: Thank you. I appreciate that.

12 THE COURT: Okay. If there's no cause
13 challenges, the jury is with the Defendant.

14 MS. BAKER: We would thank and excuse Ms. Selby.

15 THE COURT: Ms. Selby, thank you. You may stand
16 down.

17 THE CLERK: Belinda Johnson.

18 THE COURT: Okay, Ms. Johnson, have you heard all
19 the questions that were asked?

20 JUROR JOHNSON: Yes.

21 THE COURT: Are you acquainted with anyone
22 involved in the case?

23 JUROR JOHNSON: No.

24 THE COURT: Are you aware of any reason why you
25 could not be fair and impartial?

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1 JUROR JOHNSON: Past experience.

2 THE COURT: Is there something in your past that
3 would cause you to not be fair and impartial?

4 JUROR JOHNSON: Yes, it would be.

5 THE COURT: All right. You're excused for cause.
6 Thank you. You may stand down. Next witness -- or next
7 juror, please?

8 THE CLERK: Todd Goma.

9 THE COURT: Mr. Goma, have you heard all the
10 questions?

11 JUROR GOMA: Yes, I have.

12 THE COURT: Are you acquainted with anyone?

13 JUROR GOMA: No.

14 THE COURT: All right. Is there any reason why
15 you can't be fair and impartial?

16 JUROR GOMA: No reason at all.

17 THE COURT: All right. Ms. Johnson, anything?

18 MS. JOHNSON: Thank you, your Honor. Sir, I see
19 you are a military police officer for the Marines?

20 JUROR GOMA: Yes.

21 MS. JOHNSON: Thank you for your service.

22 JUROR GOMA: Thanks.

23 MS. JOHNSON: Is there anything about that job
24 that you think either side would want to know about as far
25 as a bias that may have created for sitting in a criminal

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1 jury trial?

2 JUROR GOMA: None whatsoever.

3 MS. JOHNSON: Okay. Have you or anyone close to
4 you ever been accused of or a victim of a sexual crime?

5 JUROR GOMA: I have a half brother that was, uhm
6 -- he was convicted -- well, he was not convicted, but he
7 was accused and was -- went through the court process and
8 found not guilty.

9 MS. JOHNSON: Okay.

10 JUROR GOMA: In the state of Texas.

11 MS. JOHNSON: In the state of Texas, so it was
12 not here.

13 JUROR GOMA: Right.

14 MS. JOHNSON: Were you familiar with what was
15 going on at the time? Did you talk to him about it?

16 JUROR GOMA: Just hearsay from my mother. That's
17 it.

18 MS. JOHNSON: Okay. So is there anything about
19 that that you would be bringing to this case?

20 JUROR GOMA: No.

21 MS. JOHNSON: No? Uhm, how old was the alleged
22 victim in that case?

23 JUROR GOMA: I believe that she was 11.

24 MS. JOHNSON: And you've heard my question about
25 testimonial versus physical evidence I think about 45

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1 times now, I'm sure.

2 JUROR GOMA: Yes.

3 MS. JOHNSON: What's your answer to that?

4 JUROR GOMA: I can based on testimony.

5 MS. JOHNSON: Okay. And are you open-minded to
6 hearing an expert if it's maybe something you weren't
7 aware of or you thought differently about?

8 JUROR GOMA: Yes.

9 MS. JOHNSON: Okay, thank you.

10 THE COURT: Okay. Ms. Baker, any questions?

11 MS. BAKER: Did you hear my questions?

12 JUROR GOMA: Yes, I did.

13 MS. BAKER: Did any of them prompt any thoughts
14 that we should discuss your answers?

15 JUROR GOMA: No.

16 MS. BAKER: Okay, thank you.

17 THE COURT: Okay. If there's no challenge for
18 cause, the jury is with the People.

19 MS. JOHNSON: I'm sorry, your Honor? With me for
20 the peremp?

21 THE COURT: Yes, uh-huh.

22 MS. JOHNSON: The People would thank and excuse
23 the juror in seat number 8, Mr. Klassen.

24 THE COURT: Okay. Mr. Klassen, you may stand
25 down. Thank you, sir.

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1 THE CLERK: Matthew Shultz.

2 THE COURT: Mr. Shultz, have you heard all of the
3 questions that were asked?

4 JUROR SHULTZ: Yes, sir.

5 THE COURT: Are you acquainted with anyone
6 involved in the case?

7 JUROR SHULTZ: No.

8 THE COURT: Are you aware of any reason why you
9 could not be fair and impartial?

10 JUROR SHULTZ: I can be impartial.

11 THE COURT: Ms. Johnson, here we go.

12 MS. JOHNSON: I know, I talk too much. The Judge
13 is annoyed with me. You've all heard the same questions
14 over and over again, but this is important; okay? Anyone
15 close to you ever been the victim or accused of a sexual
16 crime?

17 JUROR SHULTZ: No.

18 MS. JOHNSON: Okay. My question about
19 testimonial and physical evidence, where do you fall on
20 that?

21 JUROR SHULTZ: I think I can give a verdict.

22 MS. JOHNSON: You think or you know you can if
23 you believe it?

24 JUROR SHULTZ: I know I can.

25 MS. JOHNSON: Okay. Are you open to listening to

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1 an expert?

2 JUROR SHULTZ: Yes.

3 MS. JOHNSON: Okay. Do you have any familiarity
4 with this computer store on Airline Road or anybody
5 involved in the case?

6 JUROR SHULTZ: No.

7 MS. JOHNSON: Okay. Have you ever been in jail
8 for any reason or a mental hospital?

9 JUROR SHULTZ: Nope.

10 MS. JOHNSON: Okay, thank you.

11 THE COURT: Okay, thank you. Ms. Baker, any
12 questions?

13 MS. BAKER: No questions.

14 THE COURT: Okay. The jury is -- if there's no
15 cause, the jury's with the Defendant.

16 MS. BAKER: We would thank and excuse Mrs.
17 Metcalf, excuse me.

18 THE COURT: Okay, Ms. Metcalf, thank you. You
19 may stand down. Next juror, please.

20 THE CLERK: Mark Hudd.

21 THE COURT: Okay. Mr. Hudd, are you acquainted
22 with anyone involved in the case?

23 JUROR HUDD: No.

24 THE COURT: Did you hear all the questions?

25 JUROR HUDD: Yes.

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1 THE COURT: Are you aware of any reason why you
2 could not be fair and impartial?

3 JUROR HUDD: No.

4 THE COURT: Okay. Ms. Johnson?

5 MS. JOHNSON: Sir, I see you're wearing a GE
6 shirt. Do you work there?

7 JUROR HUDD: Uh-huh.

8 MS. JOHNSON: Do you know Ms. Bose?

9 JUROR HUDD: No.

10 MS. JOHNSON: Okay. Do you know Jennifer
11 Houston?

12 JUROR HUDD: No.

13 MS. JOHNSON: You put on your questionnaire your
14 profession was SS? What's that?

15 JUROR HUDD: SS? Oh, a specialist.

16 MS. JOHNSON: A specialist?

17 JUROR HUDD: Uh-huh.

18 MS. JOHNSON: What do you do?

19 JUROR HUDD: Run the CNC and wire machines.

20 MS. JOHNSON: The same three questions I've asked
21 everybody else to try to go through it quickly. Anybody
22 you know have anything to do with a sexual crime?

23 JUROR HUDD: No.

24 MS. JOHNSON: Testimonial versus physical
25 evidence, what's your answer on that?

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1 JUROR HUDD: It's gonna be tough.

2 MS. JOHNSON: It's gonna be tough, okay.

3 Elaborate on that.

4 JUROR HUDD: I also own an underground sprinkling
5 business and, as you know, it's a busy time and I work.

6 MS. JOHNSON: Okay.

7 JUROR HUDD: So ...

8 MS. JOHNSON: So actually sitting here and being
9 a juror is gonna be tough for you.

10 JUROR HUDD: It has been already.

11 MS. JOHNSON: Okay. Are you losing business by
12 being here?

13 JUROR HUDD: Yeah, and potentially three
14 sprinkling systems.

15 MS. JOHNSON: Okay. Has that been on your mind
16 as you've been sitting here waiting?

17 JUROR HUDD: Yeah.

18 MS. JOHNSON: Are you going to be able to put
19 that out of your mind while you sit and listen to
20 testimony and evidence? There is no right answer.

21 JUROR HUDD: No.

22 MS. JOHNSON: You're not going to be able to?
23 Okay. Thank you for being honest.

24 THE COURT: Any questions, Ms. Baker?

25 MS. BAKER: No.

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1 THE COURT: Any challenges for cause?

2 MS. JOHNSON: Yes, your Honor. The People would
3 challenge Mr. Hode, Hood for cause.

4 THE COURT: Who? Who's that?

5 MS. JOHNSON: I'm not pronouncing it right. The
6 juror we just spoke with.

7 THE COURT: Which juror? Oh, okay, okay. Well,
8 sir, you know, I have a lot of things on my mind too, and
9 I'm sure you do and I certainly understand that, but are
10 you going to be able to pay attention?

11 JUROR HUDD: Probably.

12 THE COURT: Okay. No cause here. The jury is
13 with the People peremptorily.

14 MS. JOHNSON: The People thank and excuse the
15 juror in seat number 9, Ms. Kevy.

16 THE COURT: Okay. Ms. Kevy, thank you, you may
17 stand down.

18 THE CLERK: Suzanne Peters.

19 THE COURT: Ms. Peters, have you heard all the
20 questions?

21 JUROR PETERS: Yes, I have.

22 THE COURT: Are you acquainted with anybody in
23 the case?

24 JUROR PETERS: No.

25 THE COURT: Are you aware of any reason why you

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1 can't be fair and impartial?

2 JUROR PETERS: No.

3 THE COURT: Okay. Ms. Johnson?

4 MS. JOHNSON: Do you know anyone who's been a
5 victim or accused of a sexual crime?

6 JUROR PETERS: No.

7 MS. JOHNSON: The question about testimonial
8 versus physical evidence, what's your answer there?

9 JUROR PETERS: I understand the difference and I
10 could make a decision based on testimony.

11 MS. JOHNSON: And are you open to hearing from an
12 expert, even if it's something that you may have believed
13 to be different?

14 JUROR PETERS: Yes.

15 MS. JOHNSON: Okay, thank you.

16 THE COURT: Ms. Baker?

17 MS. BAKER: Did you hear my questions, ma'am?

18 JUROR PETERS: Yes.

19 MS. BAKER: Did any of them prompt anything that
20 you thought we should discuss?

21 JUROR PETERS: No.

22 MS. BAKER: Okay, thank you.

23 THE COURT: If there's no cause, the jury's with
24 the Defendant.

25 MS. BAKER: We'd thank and excuse Mr. Glerum.

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1 THE COURT: Okay. Mr. Glerum, thank you, sir.
2 You may stand down.

3 THE CLERK: Nancy Evans.

4 THE COURT: Okay, Ms. Evans, have you heard all
5 the questions?

6 JUROR EVANS: Yes.

7 THE COURT: Are you acquainted with anyone
8 involved in the case?

9 JUROR EVANS: No.

10 THE COURT: Are you aware of any reason why you
11 cannot be fair and impartial?

12 JUROR EVANS: No.

13 THE COURT: Ms. Johnson, anything?

14 MS. JOHNSON: Thank you. Ms. Evans, I see you
15 have a misdemeanor.

16 JUROR EVANS: Yes.

17 MS. JOHNSON: How long ago was that?

18 JUROR EVANS: 11 years.

19 MS. JOHNSON: All right. Was that here locally?

20 JUROR EVANS: Yeah.

21 MS. JOHNSON: Is there anything about that that
22 you're still holding onto that I need to know about?

23 JUROR EVANS: No.

24 MS. JOHNSON: Would you hold it -- were you
25 treated fairly?

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1 JUROR EVANS: (Inaudible.)

2 MS. JOHNSON: Okay. So there's nothing you'd be
3 holding against the police or the prosecution?

4 JUROR EVANS: (Inaudible.)

5 MS. JOHNSON: Okay. Do you know anyone who's
6 been accused of or a victim of a sexual crime?

7 JUROR EVANS: No.

8 MS. JOHNSON: And with testimonial versus
9 physical evidence, what's your answer in that
10 conversation?

11 JUROR EVANS: I would have no problem, you know,
12 deciding.

13 MS. JOHNSON: Okay, thank you.

14 THE COURT: Okay. Ms. Baker, anything?

15 MS. BAKER: No, your Honor.

16 THE COURT: Okay. If there's no cause, back with
17 the People.

18 MS. JOHNSON: The People would thank and excuse
19 the juror in seat number 8, Mr. Shultz.

20 THE COURT: Mr. Shultz, thank you, you may stand
21 now. Next juror, please.

22 THE CLERK: Eric Wurnstrom.

23 THE COURT: Mr. Wurnstrom, have you heard all the
24 questions?

25 JUROR WURNSTROM: Yeah.

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1 THE COURT: Are you acquainted with anyone in the
2 case?

3 JUROR WURNSTROM: No.

4 THE COURT: Are you aware of any reason why you
5 can't be fair and impartial?

6 JUROR WURNSTROM: No.

7 THE COURT: Ms. Johnson?

8 MS. JOHNSON: Thank you. Sir, I see you had
9 answered yes for a misdemeanor and left the felony
10 question blank.

11 JUROR WURNSTROM: I got two misdemeanors.

12 MS. JOHNSON: How long ago?

13 JUROR WURNSTROM: I got one like seven months
14 ago.

15 MS. JOHNSON: Okay, so fairly recent. Was that
16 here in Muskegon?

17 JUROR WURNSTROM: No, Ottawa.

18 MS. JOHNSON: What's that?

19 JUROR WURNSTROM: Ottawa County.

20 MS. JOHNSON: Ottawa?

21 JUROR WURNSTROM: Like I'm still on probation for
22 it and stuff.

23 MS. JOHNSON: You are on probation currently?
24 Would that affect your ability to listen to testimony of
25 police officers?

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1 JUROR WURNSTROM: Maybe a little bit, yeah.

2 MS. JOHNSON: Would you keep an open mind -- I
3 mean, the police officers involved in this case are not
4 the same police officers. Would you keep an open mind to
5 their testimony?

6 JUROR WURNSTROM: Yeah.

7 MS. JOHNSON: Okay, thank you.

8 THE COURT: Ms. Baker, any questions?

9 MS. BAKER: No questions.

10 THE COURT: Okay. If there's no challenges for
11 cause, we'll go with the Defendant peremptorily.

12 MS. BAKER: We would thank and excuse Ms. Booth
13 in number 12.

14 THE COURT: Okay. Ms. Booth, you may be excused.

15 THE CLERK: Josephine Terrell.

16 THE COURT: Ms. Terrell, have you heard all the
17 questions?

18 JUROR TERRELL: Yes.

19 THE COURT: Are you acquainted with anyone in the
20 case?

21 JUROR TERRELL: No.

22 THE COURT: Are you aware of any reason why you
23 can't be fair and impartial?

24 JUROR TERRELL: Yes.

25 THE COURT: And what's the problem?

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1 JUROR TERRELL: I have two nieces -- two nieces
2 that were molested by their stepdad and they really had a
3 hard time. Watchin' them go through so much is --

4 THE COURT: Okay. Well, that was a totally
5 different situation than what we have here.

6 JUROR TERRELL: Yeah.

7 THE COURT: Can you be fair and impartial in
8 deciding the facts in this case? They have nothing to do
9 with that.

10 JUROR TERRELL: I can't say that I could.

11 THE COURT: Okay, you're excused. Thank you.
12 Please make sure -- I'll remind everybody you need to call
13 this evening because you're gonna be needed for -- you're
14 gonna start another tomorrow, so okay?

15 JUROR TERRELL: Uh-huh.

16 THE CLERK: Jennifer Swinehart.

17 THE COURT: Ms. Swinehart, have you heard all the
18 questions?

19 JUROR SWINEHART: Yes, sir.

20 THE COURT: Are you acquainted with anybody?

21 JUROR SWINEHART: No, sir.

22 THE COURT: Are you aware of any reason why you
23 can't be fair and impartial?

24 JUROR SWINEHART: No, sir.

25 THE COURT: Okay. Ms. Johnson?

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1 MS. JOHNSON: Good afternoon, ma'am. Do you know
2 anyone who has been a victim or accused of a sexual crime
3 or have you yourself been a --

4 JUROR SWINEHART: No, ma'am.

5 MS. JOHNSON: And the question I've asked about
6 testimonial versus physical evidence. What's you --

7 JUROR SWINEHART: Not an issue.

8 MS. JOHNSON: Not an issue? Okay, thank you.

9 JUROR SWINEHART: Uh-huh.

10 THE COURT: Ms. Baker?

11 MS. BAKER: Did you hear my questions, ma'am?

12 JUROR SWINEHART: Yes, I did.

13 MS. BAKER: Thank you.

14 THE COURT: Okay. If there's no challenge for
15 cause, we are back with the People.

16 MS. JOHNSON: The People would thank and excuse
17 the juror in seat number 8, Mr. Wurnstrom.

18 THE COURT: Okay, Mr. Wurstrom, you may stand
19 down.

20 THE CLERK: Eugene Simmons.

21 THE COURT: Mr. Simmons, have you heard all the
22 questions?

23 JUROR SIMMONS: Yes, sir.

24 THE COURT: Anything -- anybody that you're
25 acquainted with here?

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1 JUROR SIMMONS: No, sir.

2 THE COURT: Any reason why you can't be fair and
3 impartial?

4 JUROR SIMMONS: No, sir.

5 THE COURT: Okay. Ms. Johnson?

6 MS. JOHNSON: Your Honor -- or I'm sorry. Sir, I
7 see you've been at some point in a mental hospital or a
8 correctional institute?

9 JUROR SIMMONS: In a correctional.

10 MS. JOHNSON: As a visitor or an inmate?

11 JUROR SIMMONS: For about three months, yeah.

12 MS. JOHNSON: How long ago was that?

13 JUROR SIMMONS: That was in the '90s.

14 MS. JOHNSON: Were you convicted of anything?

15 JUROR SIMMONS: Yes.

16 MS. JOHNSON: Misdemeanor or felony.

17 JUROR SIMMONS: Misdemeanor.

18 MS. JOHNSON: Was that here in Muskegon?

19 JUROR SIMMONS: Uh, yes.

20 MS. JOHNSON: Okay. Do you think you were
21 treated fairly?

22 JUROR SIMMONS: Oh, yeah. It was my fault.

23 MS. JOHNSON: Okay. Is there anything about that
24 experience that you're holding bad feelings towards the
25 police or the prosecutor's office or anything like that?

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1 JUROR SIMMONS: No.

2 MS. JOHNSON: Okay. The question about
3 testimonial versus physical evidence. Where do you land
4 in that conversation?

5 JUROR SIMMONS: I guess cases have been solved
6 without physical evidence before, you know.

7 MS. JOHNSON: I mean this is not a case of a
8 whodunit like we see on a lot of TV shows. This is a do
9 you believe the witnesses case.

10 JUROR SIMMONS: Exactly.

11 MS. JOHNSON: So without anything physical that
12 you can hold in your hand that supports the witness, do
13 you think if you believe them that that's enough?

14 JUROR SIMMONS: Oh, yes.

15 MS. JOHNSON: Okay, thank you.

16 THE COURT: Ms. Baker, any questions?

17 MS. BAKER: Mr. -- or sir, did you hear my
18 questions?

19 JUROR SIMMONS: Yes, ma'am.

20 MS. BAKER: All right. Sometimes I get accused
21 of talking too softly. Did any of my questions prompt any
22 thoughts that we should talk about your responses?

23 JUROR SIMMONS: No.

24 MS. BAKER: Okay.

25 JUROR SIMMONS: (Inaudible.)

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1 MS. BAKER: All right. Is Mr. Rainbolt guilty or
2 not guilty?

3 JUROR SIMMONS: I don't know. I aint' heard the
4 case yet.

5 MS. BAKER: Thank you.

6 THE COURT: Okay. If there's no challenges for
7 cause, we're with the Defendant.

8 MS. BAKER: Just a moment. We would thank and
9 excuse juror number 9, Ms. Peters.

10 THE COURT: Ms. Peters, thank you. You may stand
11 down. Next juror, please?

12 THE CLERK: Laura Lucht, Lucht.

13 THE COURT: Okay, is it Lucht or Lucht or --

14 JUROR LUCHT: Lucht.

15 THE COURT: Okay. Ms. Lucht, have you heard all
16 the statements that were made here?

17 JUROR LUCHT: Yes.

18 THE COURT: You acquainted with anybody?

19 JUROR LUCHT: No.

20 THE COURT: You aware of any reason why you can't
21 be fair and impartial?

22 JUROR LUCHT: No.

23 THE COURT: All right. Ms. Johnson?

24 MS. JOHNSON: Good morning -- or good afternoon.
25 All right. You're a social worker?

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1 JUROR LUCHT: Yes.

2 MS. JOHNSON: Do you work with any victims of
3 sexual crimes?

4 JUROR LUCHT: Not that I'm aware of.

5 MS. JOHNSON: Okay. And your husband is a state
6 trooper; right?

7 JUROR LUCHT: State parole agent.

8 MS. JOHNSON: Parole agent. Sorry, I can't read
9 my own handwriting. Do you talk to him about his work
10 much?

11 JUROR LUCHT: Not specifics, no.

12 MS. JOHNSON: Okay. Is there anything about his
13 profession that you think we should be concerned about or
14 yours for that matter?

15 JUROR LUCHT: No.

16 MS. JOHNSON: No, all right. You've heard the
17 questions about testimonial versus physical. Where do you
18 fall on that conversation?

19 JUROR LUCHT: (Inaudible.)

20 MS. JOHNSON: Okay. And have you or anybody
21 close to you been accused of or a victim of a sexual
22 crime?

23 JUROR LUCHT: No.

24 MS. JOHNSON: Okay, thank you.

25 THE COURT: Okay. Ms. Baker, any questions?

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1 MS. BAKER: No questions, your Honor.

2 THE COURT: Okay. If there's no challenge for
3 cause, we're back peremptorily with the People.

4 MS. JOHNSON: If I could have one moment, your
5 Honor. The People would thank and excuse the juror in
6 seat number 4, Mr. -- I'm sorry, I'm not gonna be able to
7 pronounce it. Is it Hudd?

8 JUROR HUDD: Mark Hudd. H-u-d-d.

9 MS. JOHNSON: Oh, I've got the wrong name. Thank
10 you.

11 THE COURT: Okay, thank you, Mr. Hudd. You may
12 stand down. Thank you, sir, you may stand down.

13 THE CLERK: Samantha Johnson.

14 THE COURT: Okay, Ms. Johnson, have you heard all
15 the questions?

16 JUROR JOHNSON: Yes, I have.

17 THE COURT: Are you acquainted with anybody
18 involved in the case?

19 JUROR JOHNSON: Not to my knowledge.

20 THE COURT: Are you aware of any reason why you
21 can't be fair and impartial?

22 JUROR JOHNSON: No.

23 THE COURT: Okay. Ms. Johnson, any questions of
24 Ms. Johnson?

25 MS. JOHNSON: Yes, thank you, your Honor. Ma'am,

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1 I didn't get a questionnaire filled out by you, so let me
2 ask you a few questions.

3 JUROR JOHNSON: Oh.

4 MS. JOHNSON: What do you do for a living?

5 JUROR JOHNSON: I'm a nurse aide.

6 MS. JOHNSON: Okay. Have you ever been involved
7 in pelvic examinations?

8 JUROR JOHNSON: No, I have not.

9 MS. JOHNSON: Okay. What hospital or doctor's
10 office do you work at?

11 JUROR JOHNSON: Sanctuary at McAuly. It's on
12 Sherman Boulevard next to Mercy Hospital.

13 MS. JOHNSON: Okay. Do you deal with child abuse
14 or rape cases at all?

15 JUROR JOHNSON: No, no.

16 MS. JOHNSON: Okay. Are you married?

17 JUROR JOHNSON: No.

18 MS. JOHNSON: And have you ever been in a mental
19 hospital or a jail for any reason?

20 JUROR JOHNSON: No, I haven't.

21 MS. JOHNSON: You've heard the question about
22 testimonial versus physical evidence. Where do you fall
23 in that conversation?

24 JUROR JOHNSON: I can be impartial, testimonial.

25 MS. JOHNSON: Can testimony alone prove it?

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1 JUROR JOHNSON: Yes, I can believe --

2 MS. JOHNSON: If you believe it?

3 JUROR JOHNSON: Yeah.

4 MS. JOHNSON: Okay. And have you or anybody
5 close to you ever been a victim of or accused of a sex
6 crime?

7 JUROR JOHNSON: Not to my knowledge.

8 MS. JOHNSON: Thank you.

9 THE COURT: Ms. Baker, any questions?

10 MS. BAKER: Did you hear my questions, ma'am?

11 JUROR JOHNSON: Yes.

12 MS. BAKER: Any of them prompt any responses that
13 you thought we should discuss?

14 JUROR JOHNSON: No.

15 MS. BAKER: Thank you. I have nothing further.

16 THE COURT: If there's no challenges for cause,
17 we're with the Defendant.

18 MS. BAKER: No challenge for cause. Peremptorily
19 we would thank and excuse Ms. Lucht.

20 THE COURT: Ms. Lucht, you may stand down.

21 THE CLERK: Peter Benson.

22 THE COURT: Mr. Benson, have you heard all the
23 questions?

24 JUROR BENSON: Yes, sir.

25 THE COURT: Is there anybody you're acquainted

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1 with?

2 JUROR BENSON: No, sir.

3 THE COURT: Are you aware of any reason why you
4 can't be fair and impartial?

5 JUROR BENSON: No, sir.

6 THE COURT: Okay. Ms. Johnson?

7 MS. JOHNSON: Sir, as part of your job you offer
8 counsel to youth that you work with?

9 JUROR BENSON: Uhm, as far as counsel not much.
10 Like I try to help them process through stuff but I'm not
11 a licensed counselor, nor do I say I am or claim to be.

12 MS. JOHNSON: Okay. But you do talk to them
13 about things they're having difficulty with?

14 JUROR BENSON: Absolutely, yeah.

15 MS. JOHNSON: All right. Have you ever worked
16 with a child who made sexual abuse allegations and had to
17 help them work through that?

18 JUROR BENSON: Yes, I have. I have called CPS
19 probably two times since I've been a youth pastor.

20 MS. JOHNSON: Do you think all victims act the
21 same?

22 JUROR BENSON: Absolutely not.

23 MS. JOHNSON: Is there anything about your
24 experience working with those children that would -- that
25 you think we should know about?

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1 JUROR BENSON: Not necessarily, I guess.

2 MS. JOHNSON: Okay. There's nothing that would
3 cause you to have a bias for one side or the other?

4 JUROR BENSON: No.

5 MS. JOHNSON: Okay. Has anybody close to you or
6 yourself ever been a victim or accused of a sexual crime?

7 JUROR BENSON: Yeah, yeah. I've had two cousins
8 who were molested by their father.

9 MS. JOHNSON: Okay. How old were they when it
10 happened?

11 JUROR BENSON: 8 to 10.

12 MS. JOHNSON: How old were you?

13 JUROR BENSON: Oh, probably 18.

14 MS. JOHNSON: Okay. So you're older than them?

15 JUROR BENSON: Yeah, I was probably an adult.

16 MS. JOHNSON: Did you get to know much about what
17 was going on? Were you involved?

18 JUROR BENSON: I knew what my parents told me,
19 that, you know, there's an accusation made. I don't
20 believe any jail time was carried out that I can remember,
21 but I know that he lost his rights to visit the child,
22 so ...

23 MS. JOHNSON: Maybe it wasn't handled criminally
24 but in parenting ways?

25 JUROR BENSON: Uhm, I think the Court ordered

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1 that he wasn't allowed to see his son.

2 MS. JOHNSON: Okay. Is there anything about that
3 that you're going to be bringing with you if you're chosen
4 as a juror here?

5 JUROR BENSON: No, ma'am.

6 MS. JOHNSON: And then my question versus
7 testimonial -- about testimonial versus physical evidence.
8 Where do you fall in that conversation?

9 JUROR BENSON: Uhm, I believe testimony is enough
10 to make a decision.

11 MS. JOHNSON: Okay, thank you.

12 THE COURT: Any questions, Ms. Baker?

13 MS. BAKER: Uhm, did you think that your -- was
14 it your cousin's dad or stepdad that was involved? Was he
15 treated fairly?

16 JUROR BENSON: Uhm, yeah, I believe so.

17 MS. BAKER: Okay. You don't think that will
18 color how you listen to the testimony in this case at all?

19 JUROR BENSON: No, ma'am.

20 MS. BAKER: Do you know if he was -- was that
21 here in Muskegon County?

22 JUROR BENSON: No. Uhm, that was in the Lansing
23 area.

24 MS. BAKER: Okay. Do you know if there was a
25 criminal case involved?

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1 JUROR BENSON: I'm not sure exactly, no.

2 MS. BAKER: That's fine.

3 JUROR BENSON: Yeah, I'm not sure.

4 THE COURT: The jury is with the People.

5 MS. JOHNSON: The People would thank and excuse
6 the juror in seat number 1, Ms. Bose.

7 THE COURT: Okay, Ms. Bose, you may stand down.
8 Thank you.

9 THE CLERK: Matthew Ohs.

10 THE COURT: Okay, Mr. Ohs, have you heard all the
11 questions?

12 JUROR OHS: Yes, sir.

13 THE COURT: Can you be fair and impartial?

14 JUROR OHS: Yes, sir.

15 THE COURT: You're not acquainted with anybody?

16 JUROR OHS: No, sir.

17 THE COURT: All right. Anything, Ms. Johnson?

18 MS. JOHNSON: Thank you, your Honor. Sir, have
19 you or anybody you know ever been a victim of or accused
20 of a sexual crime?

21 JUROR OHS: No, ma'am.

22 MS. JOHNSON: And the question about testimonial
23 and physical evidence, where do you fall in that
24 conversation?

25 JUROR OHS: No problem making a judgment on

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1 either.

2 MS. JOHNSON: Okay, thank you.

3 JUROR OHS: You're welcome.

4 THE COURT: Ms. Baker?

5 MS. BAKER: I have no questions.

6 THE COURT: The jury's with the Defendant.

7 MS. BAKER: We'd thank and excuse Mr. Benson.

8 THE COURT: Thank you. You may stand down, Mr.

9 Benson. Next juror, please?

10 THE CLERK: Kenneth Holubeck.

11 THE COURT: Mr. Holubeck, have you heard all the
12 questions that were asked of the jurors?

13 JUROR HOLUBECK: Yes.

14 THE COURT: Acquainted with anybody?

15 JUROR HOLUBECK: No.

16 THE COURT: Any reason why you can't be fair and
17 impartial?

18 JUROR HOLUBECK: No.

19 THE COURT: Thank you, sir. Any questions, Ms.
20 Johnson?

21 MS. JOHNSON: Sir, where do you work?

22 JUROR HOLUBECK: I work at Magna in Holland.

23 MS. JOHNSON: Okay. And have you or anybody you
24 know ever been a victim or accused of a sexual crime?

25 JUROR HOLUBECK: Yes.

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1 MS. JOHNSON: Okay. Who?

2 JUROR HOLUBECK: My sister.

3 MS. JOHNSON: A victim or accused?

4 JUROR HOLUBECK: Victim.

5 MS. JOHNSON: How long ago was that?

6 JUROR HOLUBECK: Late '60s.

7 MS. JOHNSON: Okay. Who did she -- who did it to
8 her?

9 JUROR HOLUBECK: My father.

10 MS. JOHNSON: Okay. Similar relationship to
11 what's here?

12 JUROR HOLUBECK: Pardon me?

13 MS. JOHNSON: Similar relationship to what we
14 have before us here.

15 JUROR HOLUBECK: Yes.

16 MS. JOHNSON: Father/daughter. Is that going to
17 affect your judgment in this case?

18 JUROR HOLUBECK: Yes.

19 MS. JOHNSON: Yes, it will?

20 JUROR HOLUBECK: Yes, it will.

21 MS. JOHNSON: Okay. Should I inquire any
22 further, your Honor?

23 THE COURT: You may stand down. Thank you. Next
24 juror, please?

25 THE CLERK: Janis Lavassuer.

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1 THE COURT: Okay, Ms. Lavassuer, have you heard
2 all the questions?

3 JUROR LAVASSUER: Yes.

4 THE COURT: Are you acquainted with anybody?

5 JUROR LAVASSUER: No.

6 THE COURT: Are you aware of any reason why you
7 can't be fair and impartial?

8 JUROR LAVASSUER: No.

9 THE COURT: Ms. Johnson?

10 MS. JOHNSON: Thank you. Ma'am, you work for Mr.
11 Marek and Mr. (Indistinguishable.)

12 JUROR LAVASSUER: Yes.

13 MS. JOHNSON: Okay. So you have contact with
14 criminal clients on a regular basis, criminal defense
15 clients?

16 JUROR LAVASSUER: Yes.

17 MS. JOHNSON: And let me see how I want to phrase
18 the next question. Do you think that's gonna affect your
19 judgment at all sitting here?

20 JUROR LAVASSUER: No.

21 MS. JOHNSON: No? And you used to work with the
22 police?

23 JUROR LAVASSUER: Yes.

24 MS. JOHNSON: What did you do for the police?

25 JUROR LAVASSUER: I was a clerk.

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1 MS. JOHNSON: Okay. Which department?

2 JUROR LAVASSUER: Roosevelt Park.

3 MS. JOHNSON: Have you had any personal contact
4 with Officer Hertel or Officer VanDommelen? No? Okay.
5 I'm sure we've spoken on the phone before, yes, but I
6 can't remember a specific time. No? Okay. And do you
7 know Ms. Baker?

8 JUROR LAVASSUER: Yes.

9 MS. JOHNSON: Okay. How well do you know her?
10 How well?

11 JUROR LAVASSUER: Uhm, well enough to know who
12 she is.

13 MS. JOHNSON: Okay. Is there anything about your
14 relationship with her that I should be aware of for, you
15 know -- No? Okay. Where do you fall on the question of
16 testimonial versus physical evidence?

17 JUROR LAVASSUER: I had a little problem with it.
18 I don't know how a warrant was issued without any physical
19 evidence.

20 MS. JOHNSON: Okay. So you don't think testimony
21 without physical evidence is enough to prove a case?
22 Because --

23 JUROR LAVASSUER: I'd have to really be sold. I
24 was --

25 MS. JOHNSON: I mean -- I'm sorry to interrupt,

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1 but you've said you don't know how a warrant was issued
2 and that's a very low standard as opposed to proof beyond
3 a reasonable doubt in a jury trial; okay? You understand
4 those two?

5 JUROR LAVASSUER: Yes, yes.

6 MS. JOHNSON: Okay. So if you have a problem
7 with that low standard being met without physical
8 evidence, do you think the higher standard can ever be met
9 without physical evidence?

10 JUROR LAVASSUER: That I'm not sure of. I
11 haven't had the opportunity to be on that side of it, I
12 guess.

13 MS. JOHNSON: Okay. If the Judge instructs you
14 -- and there actually is a jury instruction in CSC cases
15 that if there is victim testimony, there need be no
16 corroboration if that testimony proves a case beyond a
17 reasonable doubt. Will you be able to follow that
18 instruction from the Judge?

19 JUROR LAVASSUER: Yes.

20 MS. JOHNSON: Okay, thank you.

21 THE COURT: Baker?

22 MS. BAKER: No questions.

23 THE COURT: The jury's with the People.

24 MS. JOHNSON: The People would thank and excuse
25 the juror in seat number 9, Ms. Lavassuer.

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1 THE COURT: Okay, thank you, ma'am. You may
2 stand down.

3 THE CLERK: Steven Kelly.

4 THE COURT: Okay, Mr. Kelly, have you heard all
5 the questions?

6 JUROR KELLY: Yes.

7 THE COURT: Are you acquainted with anybody
8 involved in the case?

9 JUROR KELLY: No, sir.

10 THE COURT: Are you aware of any reason why you
11 cannot be fair and impartial?

12 JUROR KELLY: No.

13 THE COURT: Okay. Ms. Johnson, any questions?

14 MS. JOHNSON: Yes, thank you. Sir, I don't have
15 a questionnaire from you so what do you do?

16 JUROR KELLY: I sell life insurance, self-
17 employed.

18 MS. JOHNSON: Have you ever had any misdemeanor
19 or felonies?

20 JUROR KELLY: No.

21 MS. JOHNSON: Have you ever been involved with
22 the criminal justice system in any way?

23 JUROR KELLY: (Inaudible.)

24 MS. JOHNSON: Has anybody close to you or
25 yourself ever been a victim or accused of a sexual crime?

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1 JUROR KELLY: No.

2 MS. JOHNSON: And where do you fall on the
3 conversation of testimony versus physical evidence?

4 JUROR KELLY: Yeah, I mean, that doesn't matter.
5 I mean, testimony would be fine.

6 MS. JOHNSON: Okay. Have you ever been in a jail
7 or a mental hospital for any reason?

8 JUROR KELLY: No.

9 MS. JOHNSON: Okay, thank you.

10 THE COURT: Ms. Baker, anything?

11 MS. BAKER: No, your Honor.

12 THE COURT: Okay, the jury's with the Defendant.

13 MS. BAKER: Your Honor, we're satisfied.

14 THE COURT: Okay. Ms. Johnson?

15 MS. JOHNSON: We have a jury.

16 THE COURT: Okay. Thank you, ladies and
17 gentlemen. Those of you who were not called, I went
18 through the noon hour here so that we could excuse you for
19 the balance of the day, so you are excused. I thank you
20 for being here today on behalf of the Court and instruct
21 you that you do need to call the jury clerk this evening
22 because your services are going to be needed tomorrow. We
23 have other courtrooms that will be trying cases. So
24 you're free to go about your business now. If you want to
25 remain, you may also.

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1 As for you folks, we will be -- I presume at
2 some point you would like to have a break for lunch.

3 MR. JUROR: What's on the menu?

4 THE COURT: Oh, that comes later. Well, I'm
5 going to -- it's gonna work out well because I've got to
6 start another case in five minutes anyway so, ten minutes
7 anyway, so you might as well take your break while I do
8 that other case. So we'll have you come back at 2:45;
9 okay? Don't have any conversation now about the case with
10 anyone. I'm sure the first thing that's going to happen,
11 you're going to have contact with family or friends or co-
12 workers or something and they're gonna say where you been?
13 Well, I'm on jury duty. Oh, next question I guarantee is
14 gonna be what's the case? What's the case all about? You
15 cannot talk to them about the case. You can when the
16 trial's over with, you can talk to them anytime, but until
17 we get to that point you can't talk about the case. And,
18 of course, don't have any conversation with anybody
19 involved in the case, the attorneys or the witnesses.
20 Don't have any conversation of any kind with them. And
21 the bailiff will show you where the jury room is. When
22 you return at 2:45, he'll tell you how to notify us and
23 then we'll come in the courtroom and we'll begin the
24 trial. Okay. Remind me to swear the jury in, please,
25 when we return, ladies, and we'll be in recess.

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1 (Off the record at 1:15:15.)

2 (Court resumes at 3:06:11.)

3 THE COURT: We're getting started a little bit
4 later than we wanted to, but I understand somebody had
5 some car trouble, and I'm sorry that happened to you, but
6 I understand the police helped us out and got you here, so
7 you get special treatment when you're a juror.

8 MS. JUROR: I'm not the one who was late,
9 actually.

10 THE COURT: Whoever was.

11 MS. JUROR: I was on time.

12 THE COURT: We can get started now, and thank you
13 for all being here, and just try your best to be here as
14 close as you can to the time because we have to have
15 everybody here before we can start. I understand things
16 come up, I totally get it, so don't worry about that. But
17 before we actually get started, the first thing I'm gonna
18 do is have the bailiff administer an oath to you to try
19 the case. So if you'd all please rise now and administer
20 the oath, please?

21 THE CLERK: Would you raise your right hand? Do
22 each of you solemnly swear or affirm that in this case now
23 before the Court you will justly decide the questions
24 submitted to you, that unless you are discharged by the
25 Court from further deliberation you will render a true

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1 verdict and that you'll render your verdict only on the
2 evidence introduced and in accordance with the
3 instructions of the Court, so help you God?

4 JURORS: I do.

5 THE COURT: Okay, thank you. You may be seated.
6 What I'm going to do now is try to give you a road map on
7 how the trial is going to proceed. Now I can't tell you
8 what the evidence is going to be because I don't know what
9 it is either, but I can tell you how it's going to be
10 presented to you. The first thing that's going to happen
11 after I'm done talking to you now is the prosecutor is
12 going to be making her opening statement in which she will
13 outline her theory of the case. Now after she makes an
14 opening statement, the defense attorney has an opportunity
15 to make an opening statement, and she may decide to do it
16 at that time, she may decide to do it at a later time,
17 that's really her call, but if there are opening
18 statements made from both sides, remember these opening
19 statements are not evidence. They're only here to help
20 you understand the theories that each party has about the
21 case, but they're not evidence. The actual presentation
22 of the evidence comes after that, and that will come in
23 the form of presentation of witnesses. The prosecutor's
24 announced to you a number of names of folks she intends to
25 call as witnesses, and I don't know if there are any

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1 exhibits or not. There may be exhibits. An exhibit is
2 something that you pick up and look at, like a document or
3 a photograph or something of that nature, and the defense
4 attorney after each witness is presented by the prosecutor
5 has an opportunity to question or what we call cross-
6 examine that witness. And then after all of the
7 prosecutor's witnesses have testified, then the defense
8 again is given an opportunity to present any evidence, but
9 remember the Defendant doesn't have to present any
10 evidence and that's because by law the Defendant doesn't
11 have to do anything at a trial or produce any evidence or
12 prove his innocence. The prosecution has that burden.
13 But if the Defendant does decide to call witnesses, then
14 the prosecutor also has a right to question or cross-
15 examine the witnesses that are presented by the defense
16 and to call any witnesses that she might have to rebut any
17 testimony that was presented by the defense.

18 And then after all this evidence is presented to
19 you, then we give an opportunity to each side to present
20 to you what are called closing arguments. Again, these
21 are not evidence. They're simply designed to help you
22 understand what they, each party feels has shown or not
23 shown based on the testimony in the case, but you must
24 base your verdict only upon the evidence.

25 Now my job is different than yours. My job is

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1 to see to it that the trial is run fairly and efficiently
2 and to make decisions about what evidence can be admitted
3 and what evidence can't be and to instruct you as to what
4 the law is that you're to apply to the case, and you have
5 to take the law as I give it to you. Nothing that I say
6 is certainly intended to reflect any personal opinion I
7 might have about the facts in this case, and that's for a
8 good reason. That's because you as the jurors are the
9 ones who decide the facts in this case. That's your job.
10 Your job is to decide what the facts are, what happened
11 here. That's your role and that's your job and no one
12 else's. You're going to have to think about all the
13 evidence and all the testimony and decide what each piece
14 of evidence means and how important you think it is and,
15 of course, that will include your assessment of the
16 believability of the witnesses, and what you decide about
17 any fact in the case is final.

18 Now when it comes time for you to decide the
19 case, you're only allowed to consider evidence that was
20 properly admitted in the case, and in this case evidence
21 will consist of the sworn testimony of the witnesses and
22 any exhibits that are introduced. If there's anything
23 else that's going to be considered as evidence, I'll let
24 you know that.

25 Now in this role of deciding what the facts are,

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1 you're going to have to decide which witnesses you believe
2 and how important you think their testimony is. You don't
3 have to believe everything a witness says. You don't have
4 to reject everything a witness said. You can. You can
5 accept everything, you can reject everything, or you can
6 accept part of it and reject part of it. And in doing
7 that, in deciding what you believe, just rely on your
8 common sense and everyday experiences. But you can't use
9 anything based upon a prejudice due to someone's race or
10 national origin or gender or anything like that.

11 Now there isn't an algorithm that I can give you
12 for deciding how to believe a witness. There are some
13 questions you might want to ask as you go through that
14 process, like how well was the witness able to see or hear
15 the event they're talking about, were they paying
16 attention for a long period of time, was it a short period
17 of time? Was there something else going on at the same
18 time that might have distracted them? Does the witness
19 seem to have a good memory of what happened? How does a
20 witness look and act to you while they're testifying?
21 They're going to be here on the witness stand. You get a
22 chance to watch them testify. Does the witness seem to be
23 making an honest effort to tell the truth or does the
24 witness seem to be argumentative and evasive? Is there
25 anything about the witness's age or maturity that might

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1 affect how you assess their testimony? Does the witness
2 project any bias or prejudice or, for that matter, any
3 personal interest in how the case is ultimately decided?
4 Has the witness been suggested any promises or threats or
5 suggestions that might influence their testimony? In
6 general, does a witness have any special reason to tell
7 the truth or, for that matter, does the witness have any
8 special reason to not tell the truth, and all in all how
9 reasonable does the witness's testimony seem to you when
10 it's considered in the context of all of the other
11 evidence in the case?

12 Now the way we go through this process of
13 presenting the evidence is the attorneys ask questions and
14 the witnesses answer the questions, but it's the answers
15 themselves and only the answers that are the evidence.
16 And so you shouldn't think that something is true simply
17 because one of the attorneys asked a question that assumes
18 or suggests that it is true.

19 It's possible I may ask a question or two of a
20 witness also, and if I do that I'm not trying to reflect
21 any opinion about the evidence in the case. My only
22 purpose in doing that would be to cover something that I
23 feel should be more fully explored.

24 Now during the trial there may come times when
25 the attorneys feel that some of the rules that we have to

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1 follow in the courtroom are not being followed, and if
2 they see the situation that way it's their obligation to
3 their client to make an objection, and when they make that
4 objection then the opposing attorney will be given an
5 opportunity to respond to the objection. Maybe they agree
6 with the objection, maybe they don't, and if there's a
7 disagreement over the validity of the objection then it
8 becomes incumbent upon me to make a decision and to either
9 sustain the objection, in other words agree with it, or to
10 overrule the objection and I have to do that according to
11 the law. I don't get to decide that based on what my
12 personal opinion may be about that, so if I do that I'm
13 doing it according to the law.

14 Now sometimes those objections may be a little
15 complicated and it may require some discussion with the
16 attorneys about that, and there's a couple of ways that
17 may come about. I may either invite the attorneys to come
18 over here and have a discussion with me over here to my
19 right or, if I think it's going to be a lengthy discussion
20 about this objection, I may excuse you back to the jury
21 room while we're having that discussion. Now my reason
22 for doing that is two-fold. One is that discussion that I
23 have with the attorneys, that's a question about the law,
24 not the facts. Remember, your job is to decide what the
25 facts are. My job is to tell you what the law is. So

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1 when it becomes a question of law, then I get involved and
2 so there's no use keeping you in the courtroom or
3 involving you in that discussion because it really has
4 nothing to do with what your job is here.

5 The second reason I may excuse you from the
6 courtroom is just to give you a break, to get out of here,
7 while we continue to work on and try to resolve any legal
8 questions there are.

9 Now when we do take that break or when we do
10 take a break like we did over the lunch period or when we
11 do take a break for the evening, you're not to discuss
12 this case as I told you with anyone; family, friends,
13 anybody like that. And as a matter of fact, you're not
14 even to discuss it among yourselves until it comes time
15 for you to decide the case and that will be after all the
16 evidence has been presented and all the arguments have
17 been made and I've given you some final instructions. So
18 -- now, listen, when the trial's over with, you can talk
19 about this case to anybody you want to. You don't have
20 to, but you can if you wish, but until we reach the point
21 in the trial where we actually go into deliberation, or
22 you actually go into deliberation, you may not discuss the
23 case.

24 Now there are, as I said, certain people with
25 whom you can't have any discussion whether it has anything

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1 to do with the case or not, and those are the people that
2 are involved in the case and those are the lawyers, the
3 witnesses, the parties. And the reason we do that, the
4 reason we do that is because, look, we not only want you
5 to in fact be fair and impartial, we also and I think
6 you'd agree want it to look like it's impartial too. So
7 if you are out in the hall with one of the attorneys
8 having a good laugh over something, well, the other side
9 might look at that and say, well, my, they're awful cozy,
10 I'm not sure this is a level playing field, they seem to
11 be awfully friendly. So, you know, to avoid even the
12 appearance of impropriety you shouldn't have any
13 discussion with anybody involved in the case because it's
14 very important that the only information that you get
15 about this case is information that comes to you in the
16 courtroom, in my presence, when it's tested under the
17 scrutiny of the legal procedures that we do so.

18 So for that reason I'm also telling you you
19 cannot -- and I don't know if there's any media coverage
20 about this case or not, but if there happens to be, you
21 may not listen to, read, or observe any media accounts of
22 this case for the same reasons. You know, the media I
23 have great respect for and they make every possible
24 effort -- these reporters that cover this courtroom make
25 every possible effort they can to be as accurate and

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1 balanced as they possibly can be, but I have to tell you
2 that it doesn't always get done accurately notwithstanding
3 their best efforts. If any of you have ever been the
4 subject of any articles in the paper or anything like
5 that, and I have hundreds of time, okay, I'm in the paper
6 every week, and I can tell you that it's not always
7 exactly the way it happens here. And so for that reason,
8 you rely on yourself to make the decision in this case.
9 Don't rely on what someone else is telling you through the
10 media.

11 Now the restrictions that I have made is to make
12 sure that you not have information outside the courtroom.
13 So that means don't conduct any experiments of your own.
14 You know, we all have access to the internet now. Don't
15 be doing any investigation or research on the internet
16 about any of the issues that are brought up in this case
17 because that, again, is material that is not subjected to
18 the scrutiny of the rules of procedure and questioning and
19 cross-examination that a courtroom is and that's the only
20 place from which you can derive the information that
21 you're going to use to arrive at your verdict. And so
22 turn off your cell phones when you're in the jury room
23 and, you know, don't be using your iPads or anything like
24 that. Base your case on only what is presented to you
25 here in the courtroom in the presence of everybody.

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1 Now I don't believe it's desirable or helpful
2 for you to take notes during the trial. I find that that
3 is distracting you from paying attention to the actual
4 testimony or evidence that's being presented, so you won't
5 be taking any notes.

6 Now you -- by the way, you notice that we have
7 13 of you here and I told you at the outset everyone is
8 entitled to a jury of 12 persons and that is correct, and
9 that means that 12 people will deliberate in this case so
10 that one of you, before we actually start the
11 deliberations, will be excused. And the reason we have an
12 extra person here is, I mean, you never know. You know,
13 health emergencies come up. Every once in a while someone
14 becomes -- you know, has to go to the emergency room
15 because they're violently ill for some reason and can't
16 continue on here, and so we don't want to have to abort
17 the trial at that point, so we have an extra juror just in
18 case. So at the end of the case what we'll do is we'll
19 just draw one of your names out of a hat. That will be
20 the person who won't be in deliberations.

21 The possible penalty, I think a couple of you
22 were asked questions about whether you know anything about
23 the penalty for this type of an offense. Well, the reason
24 that question was asked is because possible penalties
25 should have no influence on your decision whatsoever.

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1 It's my job as the Judge to impose the penalty, so that
2 doesn't have any bearing upon your decision about what the
3 facts are in this case.

4 Now, you know, I may give you some instructions
5 as the trial unfolds. I can assure you that at the end of
6 the trial I'll be giving you some rather detailed
7 instructions on the law that you're to follow in arriving
8 at your verdict, and you should take all of my
9 instructions together and that's the body of law that you
10 use to arrive at your verdict, and a verdict in a criminal
11 case must be unanimous and that means that each juror must
12 agree upon it and it must reflect the individual decision
13 of each juror, and it's important for you to keep an open
14 mind here and not make up your mind about anything until
15 you've heard all of the evidence in the case.

16 Now I read to you, if you recall, at the outset
17 of the trial when you were back in the audience the
18 Information, which is the charge in this case. And if
19 you'll recall, the charge in this case is called criminal
20 sexual conduct in the first degree, and there are, as I
21 said, as with all crimes there are certain elements that
22 the prosecutor must prove to establish the guilt of the
23 Defendant beyond a reasonable doubt. And the elements of
24 first degree criminal sexual conduct are, first, that the
25 Defendant, Mr. Rainbolt, engaged in a sexual act that

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1 involved entering into Alyssa Ward's genital opening by
2 his penis and any entry, no matter how slight, is enough.
3 It doesn't matter whether the sexual act was completed or
4 whether semen was ejaculated. Secondly, the prosecutor
5 must prove that Alyssa Ward was at least 13 but less than
6 15 years old at the time of the event, and third, the
7 prosecutor must prove that she was the Defendant's
8 daughter. Now I think that's all you need to know with
9 regard to this case to be able to sit back and listen and
10 observe the testimony and listen to the testimony and the
11 exhibits and get the information that you need to arrive
12 at a verdict. So at this time I'm going to invite Ms.
13 Johnson to address the jury with her opening statement.

14 MS. JOHNSON: Thank you, your Honor. Good
15 afternoon again, everyone. This is my opportunity to tell
16 you all what I believe the evidence will show. And I want
17 to start by telling you what I think the evidence is going
18 to show from the very first witness that you're going to
19 hear from. The first person you are going to meet today
20 is Jennifer Houston. Jennifer, when she was younger, had
21 a child with the Defendant, Eric Rainbolt. That child was
22 a girl, her name is Alyssa. Today she's 16 years old.
23 She was born in January of 1998. I expect Jennifer will
24 tell you that the Defendant and Alyssa never had a very
25 close relationship. There was a period of time when he

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1 was not in her life at all and since then it's been
2 inconsistent at best.

3 The next thing I expect Jennifer to tell you
4 will be that a few years ago she noticed some troubling
5 behaviors in Alyssa. She noticed Alyssa was wearing dark
6 makeup, a lot of makeup. She was wearing dark, revealing,
7 tight clothing. I'll come right out and say this because
8 I know you're going to hear Ms. Baker say it, at this
9 period of time Alyssa is not a perfect person, she was
10 telling some lies, she was telling some lies at this
11 period of time. She was withdrawn from her family,
12 isolating herself. She wasn't being an active participant
13 in family life. She has two younger brothers and a
14 stepfather in the home. She was withdrawing from all of
15 them. And she began cutting herself. For those of you
16 who don't know what cutting is, she was actually taking a
17 razorblade to her skin on her arms and on her thighs and
18 mutilating herself with that razorblade.

19 Now Jennifer observed this behavior and had
20 confronted her daughter about it and for a while she
21 thought the cutting had stopped. But then on August 6th
22 of 2013 Jennifer found a bloody razor in her daughter's
23 room, razorblade, and this caused Jennifer to confront
24 Alyssa. In this confrontation Alyssa was resistant to
25 tell her mother anything. Jennifer said, you know, you

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1 have to tell us why you're cutting and her stepfather even
2 got involved in the conversation and her stepfather said,
3 you know, this behavior is not normal and it's not okay
4 for a girl your age. What happened to you to cause you do
5 this? And at one point in the conversation Jennifer even
6 rose her hands up figuratively speaking. Throws her hands
7 up and says, I can't deal with you anymore if you're going
8 to be behaving like this. I'm going to go send you to
9 live with him. I'm going to go send you to live with your
10 dad. And you'll hear from Alyssa that at that point she
11 finally broke down in tears and explained to her parents
12 what was going on, her mother and her stepfather, what was
13 going on, and you'll hear from Alyssa that about a year to
14 a year and a half before they confronted her on August 6th
15 when Alyssa was in 8th grade, her father, the Defendant,
16 raped her.

17 When Jennifer got this information, she called
18 the police, and you will hear about the process that
19 unraveled when she called the police. First of all,
20 you'll hear the police took a report from Jennifer but
21 never interviewed Alyssa and why they never interviewed
22 her is because in a case like this there is a specific
23 kind of interview that must be followed, and instead of
24 the police interviewing her they took her to a trained
25 professional at the Child Abuse Council who is trained in

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1 what we call forensic interview techniques. And you'll
2 hear from Kim Watson who conducted this interview. And
3 Ms. Watson will tell you what a forensic interview is.
4 It's a specific interview where she's trained to get
5 information from a person who is a victim or a witness
6 without asking any leading questions, without inserting
7 any of her ideas into the conversation so that all of the
8 information comes from Alyssa in this situation, and
9 you'll hear that she followed these protocols.

10 You will hear that as part of this process
11 Jennifer got Alyssa into therapy and you will hear from
12 Alyssa a little bit about her therapy. Obviously there's
13 privilege involved in that. You won't hear the details of
14 the actual therapy, but you will hear that from both
15 Alyssa and Jennifer the remarkable difference that that
16 therapy has made in Alyssa's life. I think Alyssa will be
17 very proud when she tells you she's stopped cutting since
18 she's been in therapy. Jennifer and Alyssa will both tell
19 you she's more involved in the family now. She's no
20 longer wearing this makeup and clothing, and the lies have
21 stopped.

22 You will also hear that as part of what happened
23 after this disclosure Jennifer had to take Alyssa to the
24 DeVos Children's Hospital in Grand Rapids and she had to
25 have a medical examination. She had to have a pelvic exam

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1 from this. And you will hear from Dr. Simms, and this is
2 one of the things I asked a lot of you about in voir dire
3 is keeping an open mind to what these expert witnesses
4 have to say. And you will hear from Dr. Simms that she is
5 specialized in child abuse and child sexual abuse and she
6 specializes in diagnosing and working with these children.
7 And she's going to explain to you a little bit about the
8 female body that may be contrary to some things that we
9 all commonly believe, and that is that the idea that the
10 first sexual experience or first penetration damages the
11 hymen or causes trauma to the body is not a true idea.
12 She's going to explain to you how the female body is made
13 to accept that type of intrusion and penetration and
14 accommodate it, and I know that you will hear Ms. Baker
15 again and again say there's no physical evidence of
16 penetration because the fact is that Alyssa's medical
17 examination was completely normal. It was about a year
18 and a half after this, and there was no damage to her
19 genital area. And you'll hear from Dr. Simms that that's
20 not expected in this type of case.

21 And you will hear that the lack of damage in no
22 way disproves anything. It has no bearing on whether or
23 not this happened; okay? And part of that is from the
24 delay in the reporting. This happened a year and a half
25 later. The body heals itself. And this delay in

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1 reporting or what scientists and therapists will call a
2 delayed disclosure, it's another crucial part of this case
3 that you will hear about.

4 And you will hear from Barb Cross, who is a
5 therapist and who specializes and is an expert in sexual
6 abuse and specifically child sexual abuse, and she will
7 tell you that this delay in disclosure is absolutely
8 expected and normal and there is scientific literature to
9 back up this idea that children do not disclose and
10 adolescents do not disclose these sexual abuses
11 immediately. Then she will give you the reasons; the
12 protection, the embarrassment. And another thing I expect
13 you'll hear from her is that there's often another
14 triggering event to the disclosure. It's not the actual
15 sexual abuse that causes disclosure but something else;
16 drug use, alcohol use, you know, any of these ways that
17 people act out after this. And that fits with exactly
18 what you have before you in this case.

19 It was not the fact of the sexual abuse, it was
20 the confrontation of the cutting that caused Alyssa to
21 finally tell her mother that this had happened. And I
22 expect that Barb Cross will tell you that that is normal
23 within the literature in her expert experience.

24 And there's another piece to this. We talked
25 about what happened after the legal process is started,

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1 but before the legal process started, before her mother
2 confronted her about cutting, before she had to go to
3 therapy, before she had to have that intrusive pelvic
4 exam, before she had had her forensic interview, before
5 the police were thought of, before this trial was thought
6 of, Alyssa told somebody else that this happened. At a
7 slumber party several months after this happened, Alyssa
8 told her friend that her father had raped her. At a time
9 when there is no arguable motive to make this up, months
10 before anything in court was ever thought of, Alyssa told
11 a friend and you will hear from that friend in Court today
12 or tomorrow that her father had raped her.

13 You will hear a jury instruction from the Judge
14 that says that to prove this charge, it is not necessary
15 that there be any evidence other than the testimony of
16 Alyssa Ward, if that testimony proves guilt beyond a
17 reasonable doubt. I told you what I expect the rest of
18 the testimony will show.

19 Now let me tell you what I expect Alyssa's
20 testimony to be. Alyssa will tell you that this happened
21 in her 8th grade school year. She was 13 when she entered
22 8th grade, 14 when she left. She will tell you that it
23 happened at her father's computer shop, which is on
24 Airline Road in Fruitport Township, and she'll tell you
25 that it happened in the time during a school break when

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1 she was visiting her father and his girlfriend or fiancé
2 and their two daughters and that the girlfriend and the
3 fiancé had gone out, I believe to her mother's house
4 maybe, and the Defendant told Alyssa we have to go to the
5 store or the shop and we have to clean it. It was not a
6 time when the shop was open. They went to clean the shop,
7 and they did some work at the shop, and at the end of it
8 Alyssa was in a back room. There was a back room there
9 that had an air mattress and she was on a laptop watching
10 Netflix laying on this air mattress and the Defendant came
11 into the back room and told her it's late, we're gonna
12 spend the night here. Get comfortable, take off your
13 pants, your jean shorts, and get comfortable. We're gonna
14 stay here. And she actually got up and went to another
15 computer to play a game and he laid down on the bed, and
16 he convinced her to come back to the bed and watch a movie
17 and as they're watching the movie he's getting closer and
18 closer to her. She doesn't think much of it at first
19 because he's her father. He then gets up to go to the
20 bathroom, and when he comes back he's only in his boxer
21 shorts; okay? And he tells Alyssa to take off her panties
22 and she starts to cry, and he tells her again to take off
23 her panties and she complies. He lays on the bed and
24 tells her to get on top of him. She says he pulled down
25 his boxers, he puts on a condom, and he pulls her down and

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1 penetrates her from underneath, and when he's all done, he
2 asks her have you ever done that before? And when she
3 tells him no, he laughed at her and tells her to go clean
4 herself back up. Ladies and gentlemen, Alyssa's testimony
5 alone per the jury instruction is enough to prove this
6 case beyond a reasonable doubt, and this case will be
7 proven to you beyond a reasonable doubt when you hear her
8 testimony and you hear all of the other testimony I talked
9 about, and at the end of this case I'll stand before you
10 again and ask you to return a verdict of guilty.

11 THE COURT: Okay. Thank you, Ms. Johnson. Ms.
12 Baker, do you care to address the jury?

13 MS. BAKER: I do, your Honor. Thank you.

14 THE COURT: You may.

15 MS. BAKER: Good afternoon, ladies and gentlemen,
16 and thank you for your attention. I know it's getting
17 late. The trial in this case is going to focus a lot on
18 credibility. I mentioned that during voir dire, and
19 that's going to be the biggest issue for you to decide in
20 this case. We have this young girl who has a -- who has
21 admitted lying in the past. We have no evidence of
22 penetration, and we do have a number of details, and
23 that's what I'd like you to focus on during the course of
24 this trial. If you look at the details that she provides
25 regarding this event, you will be able to determine that

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1 it doesn't match the life experiences and events that
2 happened in this family. You're going to find that the
3 location that she described doesn't match up to the loca
4 -- to the time frame that used this location. You're
5 going to find that where she was before this event doesn't
6 match up with her time frame. So the details that she
7 should know are true regarding this alleged event should
8 all match up with the life events of this family, and it's
9 our position that once you hear all of the evidence that
10 is presented to you in this trial during cross-
11 examination, during direct examination, and during the
12 presentation of our evidence through our various witnesses
13 you're going to have to conclude that it hasn't proven
14 beyond a reasonable doubt that Mr. Rainbolt had any sort
15 of sexual conduct or contact with his daughter.

16 Now you're going to hear stories about how
17 horrible a dad he was because he wasn't involved in this
18 child's life but, ladies and gentlemen, this is a
19 contentious -- clearly you will hear evidence that there
20 was contention between mom and dad for most of the
21 relationship and especially towards the last couple of
22 years, the time frame that's alleged here. Most of the
23 visits were coordinated through Mr. Rainbolt's girlfriend,
24 the mother of his two other children, so that she could
25 schedule family time for all of the girls to get together,

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1 so all three daughters could visit with each other, and
2 she was the one who set up all of these visits.

3 You're also going to hear that there wasn't a
4 time in 2012 that Mr. Rainbolt was alone with his daughter
5 Alyssa, and particularly not at the location that she's
6 described. So that's just an I - that's just a little bit
7 of the evidence that we expect to produce during this
8 trial, ladies and gentlemen. That's just not going to
9 match up, and when you look at what should be consistent
10 during the course of this evidence, you're going to come
11 to the conclusion that the People have not proven this
12 case beyond a reasonable doubt and we will ask you to
13 return a verdict of not guilty. Thank you.

14 THE COURT: Okay, thank you. You may call your
15 first witness, Ms. Johnson.

16 MS. JOHNSON: The People call Jennifer Houston.

17 J E N N I F E R H O U S T O N,
18 called as a witness at 3:48:08; testified as follows:

19 DIRECT EXAMINATION

20 BY MS. JOHNSON:

21 Q Good afternoon, Ms. Houston.

22 A Hi.

23 Q Do you have any children?

24 A Yes.

25 Q All right. How many do you have?

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- 1 A Three.
- 2 Q Who's your oldest?
- 3 A Alyssa.
- 4 Q How old is she?
- 5 A Se -- 16.
- 6 Q What's her date of birth?
- 7 A 1-6-98.
- 8 Q Okay. Whose her father?
- 9 A Derek Rainbolt.
- 10 Q Do you see him in the courtroom today?
- 11 A Yes.
- 12 Q Could you please point to him and identify him by what
- 13 he's wearing.
- 14 A Right there in a shirt and tie.
- 15 MS. JOHNSON: Your Honor, may the record reflect
- 16 the witness has identified the Defendant.
- 17 THE COURT: It will.
- 18 BY MS. JOHNSON:
- 19 Q How close was Alyssa's relationship with her father prior
- 20 to, say, 2011-2012?
- 21 A She would go over there occasionally, mostly through
- 22 Sarah.
- 23 Q Who's Sarah?
- 24 A His girlfriend.
- 25 Q Okay.

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1 A But she did spend time over there.

2 Q Do you know if it was a close relationship?

3 A I wouldn't say extremely close, no.

4 Q Did there come a time when you found out Alyssa was
5 cutting herself?

6 A Yes.

7 Q When did you first find that out?

8 A Uhm, she was in 8th grade.

9 Q Okay.

10 A My stepdaughter told me that she was cutting -- well, told
11 her mother, who called me.

12 Q Can you tell the jury what you mean when you say cutting?

13 A Uhm, cutting in spots that weren't shown, with razorblades
14 on like her hips under the underwear so no one could see
15 them.

16 Q So actually cutting her body with --

17 A Her body, yes.

18 Q -- with a razorblade? What did you do when you first
19 found that out?

20 A I asked her what was going on, why she started cutting.
21 She said she didn't know.

22 MS. BAKER: Objection; hearsay.

23 THE COURT: That would be hearsay, and the
24 objection is sustained. You will have to strike and not
25 consider the answer that was just given by the witness.

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1 Go ahead.

2 BY MS. JOHNSON:

3 Q Without telling me a reason, did she ever give a reason
4 for why she was cutting at that point?

5 A No.

6 Q Around the time that you first learned that she was
7 cutting did you notice any other behaviors in your
8 daughter?

9 A Uhm, yes. She became more to herself. Uhm, she dropped
10 her groups of friends down to just one friend. Uhm, she
11 started wearin' like the dark makeup around the eyes and
12 stuff like that, and I just thought it was a change.

13 Q How was her clothing at that time?

14 A Uhm, she started wearing tight clothes.

15 Q How was she interacting with you and your family at that
16 time?

17 A Uhm, she kept herself in her room a lot, didn't come out
18 much, didn't really talk to many people.

19 Q Uhm, was there a period of time when you thought the
20 cutting had stopped?

21 A Yeah, 'cause we didn't see it, the actual cuts her --
22 themselves. Like when we first found out, it was like a
23 little scar that we had saw on her arm. It wasn't till
24 later when I saw all of the -- the scars.

25 Q I want to draw your attention to August 6th, 2013. Was

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1 there something that drew your attention back to the
2 cutting on that day?

3 A Uhm, yes. Actually she was in her room. We had my nephew
4 over, and the boys, me and my husband were sitting there
5 and she was off in her room being quiet, whatever. So I
6 just went in there to see what she was doing, asked her
7 why don't you come out here and sit with us? She said she
8 didn't feel like it. There was a little box that had a
9 necklace in it and I had picked it up and the little --
10 the little liner came out with it and there was a bloody
11 razorblade under there.

12 Q What did you do when you saw that bloody razorblade?

13 A I asked her what is this and where are your cuts, let me
14 see them, and she said, I don't know what that's from.

15 MS. BAKER: Objection; hearsay.

16 THE COURT: Okay. Ladies and gentlemen, you
17 cannot consider testimony by a statement of someone who is
18 not testifying here now. That's called hearsay, and the
19 objection will be sustained, and you have to strike
20 whatever testimony was presented here about what someone
21 else told the witness.

22 BY MS. JOHNSON:

23 Q Were you immediately able to get her to admit she was
24 cutting?

25 A Yes.

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1 Q Okay. Were you immediately able to find a reason why she
2 was cutting?

3 A Yes, after probably 15 minutes or so.

4 Q Okay. So tell me about 15 minutes to get a reason.

5 A Yeah, she just --

6 Q Without telling me what she was saying, what was going on
7 in those 15 minutes?

8 A Uhm, she was crying. I said what are you doing, why are
9 you cutting this, there's -- you know, I've done all I can
10 do for you, maybe if you lived with your dad he could help
11 you through this, and that's when she started bawlin'.

12 Q Okay. At some point -- your husband is Tim Houston;
13 right?

14 A Yes.

15 Q Okay. At some point did Tim come into the room?

16 A Yes, yes, because we were kind of loud.

17 Q Okay. What happened when he came into the room?

18 A Uhm, he asks what was going on in here and I said this is
19 what's goin' on and I was holdin' up the bloody razorblade
20 and I told him she's cutting again. And he said, Alyssa,
21 why would you cut again, you know, what is your reason?
22 You have everything. You have your cell phone, you have,
23 you know, your TV, what (indistinguishable.)

24 MS. BAKER: Object to hearsay again.

25 MS. JOHNSON: There's no assertions in that

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1 statement. It's him questioning her.

2 THE COURT: Okay. What was the testimony again?

3 MS. JOHNSON: That he was asking her why she was
4 cutting.

5 THE COURT: Well, what is that offered for?

6 MS. JOHNSON: It's being offered for the
7 circumstances of what was going around -- going on at this
8 time and there's no assertion there, so it doesn't meet
9 the definition of hearsay.

10 THE COURT: I'll admit the testimony; overruled.

11 The objection doesn't meet the definition of hearsay.

12 BY MS. JOHNSON:

13 Q And you said at some point you told Alyssa you may send
14 her to go live with her dad.

15 A Yes.

16 Q Why did you do that?

17 A Uhm, because I had done all I could do for the cutting.
18 You know, I thought it stopped. I said maybe your dad can
19 help you through this because, you know, he wasn't always
20 there, you know. Maybe he could step in and help with
21 that situation.

22 Q How did Alyssa react, again without telling me what she
23 exactly said, but what's her reaction to that?

24 A She just started cryin' really hard.

25 Q Did she at that point tell you why she's cutting?

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1 A Yes.

2 Q And what did she tell you?

3 A She said that I cannot go stay there --

4 MS. BAKER: Object to hearsay.

5 MS. JOHNSON: Your Honor, the victim's
6 credibility has already been called into question by the
7 defense in opening and this is going to be a prior
8 consistent statement.

9 THE COURT: Well, you have to lay the foundation
10 for that though. You haven't laid the foundation for it,
11 so I sustain the objection. Again, you may not consider
12 statements that the victim in this case, alleged victim,
13 made to the witness. It's hearsay. It may not be
14 considered by the jury.

15 BY MS. JOHNSON:

16 Q After she told you whatever she told you, what did you do?

17 A I punched the wall, I called my mom first, and then I
18 called the police.

19 Q So let me talk about when you called the police. Did an
20 officer come to your home?

21 A No.

22 Q Did you make a report?

23 A I talked to one officer who transferred me to another -- I
24 think it was Fruitport possibly, and then they told me I
25 would get a call first thing in the morning from the Child

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1 Abuse Clinic or from an officer to -- to get with me at
2 the --

3 THE COURT: Okay. I want to go back and revise my
4 ruling admitting the evidence about him asking her about
5 cutting. That evidence should not have been admitted
6 either, because that technically is double hearsay and the
7 hearsay comes from the victim saying that's what he said,
8 and that is offered for the proof of the truth of the
9 matter that he, in fact, said it. So therefore I'm also
10 instructing the jury they may not consider that evidence
11 about him asking her about cutting. That is also hearsay.
12 I'm changing my ruling on that. Go ahead, Ms. Johnson.

13 BY MS. JOHNSON:

14 Q All right. Did any police officer actually ever interview
15 Alyssa?

16 A We went to the child abuse clinic the next morning and she
17 had an interview there.

18 Q Okay. So no uniformed police officers interviewed her?

19 A Not at my house.

20 Q Okay. And when you went to the Child Abuse Council, who
21 all went?

22 A Uhm, me, my husband, Alyssa, and the boys I believe had to
23 show up, too.

24 Q When you say the boys --

25 A Shawn and Tyree --

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- 1 Q -- can you tell the jury who you're talking about?
- 2 A My sons, Shawn and Tyree.
- 3 Q And are they your sons with the Defendant or with Tim?
- 4 A Tim.
- 5 Q How old are they?
- 6 A 9 and 11.
- 7 Q So after she was interviewed at the Child Abuse Council,
- 8 did you also have to take her for a medical exam?
- 9 A Yes.
- 10 Q Where did you take her for that medical exam?
- 11 A We had to go out to DeVos. There was a -- out in Grand
- 12 Rapids. I -- it wasn't at the DeVos actual hospital. It
- 13 was in a clinic out there.
- 14 Q Okay. What happened when you first got to the clinic?
- 15 Did they immediately take her in for a physical exam or
- 16 did you speak to them first?
- 17 A I spoke with the, uhm, doctor first, I believe.
- 18 Q And without telling me what was said, did the doctor take
- 19 a thorough history from you about Alyssa's health up to
- 20 that point?
- 21 A Yes.
- 22 Q And without telling me what was said, did the doctor also
- 23 ask you about why you were there?
- 24 A Yes.
- 25 Q Did you know if -- were you present when they spoke to

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- 1 Alyssa?
- 2 A They spoke to Alyssa separately.
- 3 Q Okay. Were you present for the exam?
- 4 A Yes.
- 5 Q Can you tell the jury what type of exam she had to have?
- 6 A She had to have a vaginal exam.
- 7 Q Was that her first vaginal exam?
- 8 A Yes.
- 9 Q Since going to the Child Abuse Council that day for the
- 10 interview has Alyssa started therapy?
- 11 A Yes.
- 12 Q How frequently was she going to therapy?
- 13 A Weekly.
- 14 Q Okay. For how long?
- 15 A Up until a month ago, so a year.
- 16 Q What changes have you -- first of all, have you seen any
- 17 changes in Alyssa since she began therapy?
- 18 A I have.
- 19 Q Okay. Can you tell the jury about those changes?
- 20 A She's becoming more sociable with everybody, the family,
- 21 and she's even like started drama. At school last year
- 22 she did her first play on stage in front of people, where
- 23 before she wouldn't want to be the center of attention,
- 24 wouldn't want no one lookin' at her.
- 25 Q Has her makeup changed?

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- 1 A Yes.
- 2 Q Tell the jury how her makeup has changed.
- 3 A It's less. Now it's just a little eyeliner and a little
4 mascara.
- 5 Q Has her style of dress changed?
- 6 A Uhm, for the most part, yeah. It's not so skintight. I
7 mean she wears her clothes regular.
- 8 Q Has the cutting changed?
- 9 A Yes. She has not cut.
- 10 Q Do you remember anytime when Alyssa contacted you to come
11 get her early from the Defendant's, a visit with the
12 Defendant?
- 13 A Uhm, yes.
- 14 Q Okay. Do you remember when that was?
- 15 A Uhm, there's, you know, a couple times that she hasn't
16 wanted to stay the whole time she said she would stay.
17 One night I got a text, it was late at night, wanted to
18 know if she could come home early. I told her she could.
19 I said to my husband, it's kinda weird, she's textin'
20 late. Uhm, I said do you want me to come get you now or
21 do you wanna wait till morning, and she said that she'll
22 just wait till morning. And I asked her where she was at.
23 She's was at Sarah Mom's house, Michelle.
- 24 Q Okay.
- 25 A The girls, her sisters over there were sleeping, she said.

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(Videotape, 10-07-14; 10:28:49)

1 Q Do you know how old Alyssa was when she started her
2 periods?

3 A She started at 13.

4 MS. JOHNSON: Okay, thank you.

5 THE COURT: Okay. Do you have any questions,
6 Ms. Baker?

7 MS. BAKER: I do, thank you.

8 CROSS-EXAMINATION

9 BY MS. BAKER:

10 Q When was it that you picked up Alyssa from Sarah's mom's
11 house?

12 A Uhm, I did not pick her up that time. Sarah just brought
13 her home early in the morning.

14 Q So that time where you testified that Alyssa had texted
15 you for an early pickup, you're saying that Sarah brought
16 her --

17 A Sarah brought her home the next morning.

18 Q Okay. Do you recall the last time you picked up Alyssa
19 from Sarah's mom's house?

20 A No, not right offhand.

21 Q Do you recall ever picking up Alyssa from her -- from --

22 A Yes, I have.

23 Q -- Sarah's mom's house?

24 A Yes, I have.

25 Q Now isn't it true that Alyssa was in therapy before her

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1 8th grade year?

2 A She was --

3 MS. JOHNSON: Objection, motions in limine.

4 MS. BAKER: I think it's relevant, your Honor.

5 I'm not -- I'm not going into the basis of why she was in
6 therapy. I'm asking if she was in therapy or counseling

7 THE COURT: All right, go ahead. All right. You
8 can ask her that.

9 A Yes, she was in counseling and during that counseling they
10 talked about cutting.

11 BY MS. BAKER:

12 Q Okay. So this most -- there have been two counseling
13 sessions or sets of times that Alyssa's been in
14 counseling?

15 A Yes, yes.

16 Q This time -- how much time was in between these two
17 counseling -- or the end of the first counseling, the
18 beginning of the second one?

19 A I'm not sure exactly.

20 Q Was it weeks, months, years?

21 A Months; a year maybe.

22 Q Okay. It's fair to say that your relationship with
23 Mr. Rainbolt was not the best relationship; correct?

24 A We didn't have the best of relationships but we didn't
25 fight all the time either.

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(Videotape, 10-07-14; 10:28:49)

- 1 Q Uhm, can you -- well, can you confirm that most of the
2 visits between Alyssa and Mr. Rainbolt's girlfriend and
3 the other children were mostly arranged through Sarah?
4 A Correct.
5 Q Or sometimes her mother, Michelle?
6 A Correct.
7 Q It would be fair to say that it was rare for Mr. Rainbolt
8 to coordinate those visits; correct?
9 A Correct.
10 Q Now Alyssa was in 8th grade from the 2011 to 2012 school
11 year; correct?
12 A Yes.
13 Q What school did she go to?
14 A Orchard View.
15 Q And did you keep a calendar of the visits that Alyssa
16 would go on to her -- to see Mr. Rainbolt or Sarah?
17 A No.
18 Q Now do you recall how many visits Alyssa had with
19 Mr. Rainbolt or Sarah during, let's say, 2012?
20 A I do not recall.
21 Q Do you recall that in June of 2012 you picked up Alyssa
22 early from the computer shop?
23 A I did.
24 Q And you were -- you were actually at that location to pick
25 her up; correct?

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1 A Correct.

2 Q Did you go inside the shop?

3 A No. I was on my way to work when I had got a text.

4 Q And was it not true -- or isn't it true that you and
5 Mr. Rainbolt had an argument when you came to pick up
6 Alyssa?

7 A Yes. We exchanged some words about he knows she is not
8 allowed to sleep at the shop and that I didn't feel it was
9 safe.

10 Q Was there also some argument about Facebook?

11 A Yes.

12 MS. JOHNSON: Objection; relevance.

13 THE COURT: Overruled.

14 BY MS. BAKER:

15 Q There was some argument about Alyssa was on Facebook at
16 that time and she wasn't supposed to be; correct?

17 A There was not an argument. When I was telling him that,
18 you know, she's not supposed to be at the shop sleeping
19 here, he said, oh, yeah, you know what's she's doing,
20 she's in there on Facebook and she's not supposed to be.
21 So it wasn't an argument.

22 Q Ms. Houston, if you could just listen to my questions. If
23 there's more I need to ask you, I will ask it of you and
24 Ms. Johnson is very good at that as well. What I'm asking
25 was whether there was an argument about Facebook. You're

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1 saying yes and Alyssa wasn't supposed to be on Facebook;
2 correct?

3 A If you're asking if there was an argument about Facebook,
4 no, there was not an argument. It was brought up.

5 Q At the time that you picked up Alyssa on that particular
6 visit, Sarah and her daughters, Zoey and Stormy, were also
7 there; correct?

8 A Correct.

9 Q You saw them physically at that location; correct?

10 A They were inside.

11 Q And would that have been the last visit that Alyssa had
12 with Mr. Rainbolt?

13 A Mmmm, I'm not exactly sure. I think she may have went to
14 Sarah's.

15 Q But with Mr. Rainbolt, that was the last visit; correct?

16 A I'm not sure.

17 Q Isn't it true that during the Christmas holidays Alyssa
18 would sometimes visit with Sarah and her mother and
19 Mr. Rainbolt?

20 A Yes.

21 Q Is it true that the last Christmas visit or the
22 Christmastime visit between them would have been in 2011?

23 A I'm not exactly sure the last Christmas she went there.

24 Q Well, in 2013, January of 2013, did you have a Facebook
25 account?

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1 A Yes.

2 Q And did you post a comment on there about how Alyssa
3 didn't go see her dad for Christmas?

4 MS. JOHNSON: Objection; hearsay and relevance.

5 MS. BAKER: This is relevant. It establishes
6 this relationship is very bad and she, uhm, attacks him
7 for not visiting with his daughter during the Christmas
8 holidays.

9 THE COURT: Okay. Go ahead.

10 A Yes, I made a Facebook post thanking Sarah Beckley and
11 Michelle Race-Beckley for always being there for Alyssa
12 when her father isn't.

13 BY MS. BAKER:

14 Q So would it be fair based upon that Facebook statement or
15 your statement to conclude that there was no visit between
16 Mr. Rainbolt and his daughter during the Christmas holiday
17 of 2012?

18 A Was that posted you said January 13th?

19 Q January 7th of 2013.

20 A 7th? That was the day after her birthday, and they
21 Facebooked her and called her.

22 Q Ma'am, I'm asking you did -- is this -- does this show
23 that she didn't visit with her dad during the Christmas
24 2012 holiday?

25 A Possibly, yes.

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(Videotape, 10-07-14; 10:28:49)

1 Q During that -- there were a number of people who responded
2 to your message; correct?

3 A Correct.

4 Q And you made some derogatory comments towards Mr. Rainbolt
5 in that; correct?

6 MS. JOHNSON: Objection; argumentative.

7 THE COURT: I'm sorry, what?

8 MS. JOHNSON: Argumentative.

9 MS. BAKER: I don't think I'm arguing with her.

10 THE COURT: Go ahead, overruled.

11 BY MS. BAKER:

12 Q Did you make derogatory comments about Mr. Rainbolt in
13 that?

14 A I'm not exactly sure what all I said.

15 Q Would reviewing it help refresh your recollection?

16 A Sure.

17 Q Look at it. Let me know if that's yours. Please read it
18 over to yourself. When you're done reviewing it, let me
19 know.

20 A I would say I did not call him names in there and it was
21 not derogatory.

22 Q Okay. You weren't being derogatory to him in any way that
23 you're --

24 A By stating facts?

25 Q No. Were you bad-mouthing him, ma'am?

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- 1 A No.
- 2 Q Did your daughter have access to you -- this conversation?
- 3 A Uhm, yes, she did.
- 4 Q She, in fact, responded to this particular conversation;
- 5 did she not?
- 6 A Yes, yes.
- 7 Q She participated in this conversation; correct?
- 8 A Yep.
- 9 Q Would you say that your comments encouraged a relationship
- 10 between her father and her?
- 11 A That relationship door was open.
- 12 Q Ma'am, would you say that your comments encouraged a
- 13 relationship between Mr. Rainbolt and his daughter?
- 14 A My comments did not discourage.
- 15 Q Okay. Was there any indication of visits between June of
- 16 2012 until January of 2013?
- 17 A Between Alyssa and Derek?
- 18 Q Yes.
- 19 A I am not sure when she saw him because he went -- she went
- 20 with Sarah.
- 21 Q Okay. So Sarah may know more than you?
- 22 A Possibly. She would know if Derek was there.
- 23 Q Now is Alyssa getting good grades in school in 2012?
- 24 A Mmmm, she doesn't get great grades, no. There was one
- 25 before all of this went down that she had pretty good

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- 1 grades.
- 2 Q Okay. Was that in October of 2012?
- 3 A I am not sure the exact date.
- 4 Q So other than that she didn't have good grades?
- 5 A She used to have good grades.
- 6 Q Now you indicated that or you testified that Alyssa
- 7 started cutting in 8th grade, or you found out about it in
- 8 8th grade; is that correct?
- 9 A Uhm, yes, I believe that was 8th grade.
- 10 Q When in 8th grade did you discover this?
- 11 A I'm not sure the exact dates.
- 12 Q Do you remember the time of year?
- 13 A No, not exactly.
- 14 Q Okay. Now did you talk to Dr. Simms about this when you
- 15 went to DeVos?
- 16 A Yes, we discussed cutting.
- 17 Q Okay. And that interview happened in October of 2013;
- 18 correct?
- 19 A Uh-huh.
- 20 Q Is that a yes or a no? I'm sorry. It's important we
- 21 gotta have words.
- 22 A Yes.
- 23 Q Okay. So in October of 2013 you interviewed with that
- 24 doctor. Did you tell Dr. Simms that it had been going on
- 25 for over two years?

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(Videotape, 10-07-14; 10:28:49)

- 1 A She had been cutting for a year and a half, couple years.
2 I told her I didn't know the exact date.
- 3 Q Okay. So it'd been going on since before her 8th grade
4 year then?
- 5 A 8th grade started in 2011.
- 6 Q Okay. The fall of 2011; correct?
- 7 A Uh-huh.
- 8 Q Are you saying that the first cutting that you discovered
9 was in the fall of 2011?
- 10 A I'm saying I'm not sure when I first discovered it.
- 11 Q Do you recall the time of year at all?
- 12 A No.
- 13 Q Do you remember any events going on in your family's life?
- 14 A No. I remember my stepdaughter's mother calling to tell
15 me that she had told him --
- 16 Q I'm not asking you what the stepmother said. Do you
17 remember when that stepmother called?
- 18 A No, not exactly, I don't.
- 19 Q Not even generally?
- 20 A No.
- 21 Q Now you suggested to your daughter after you discovered
22 this bloody razor in August of 2013 that she might need to
23 go live with her dad; correct?
- 24 A Correct.
- 25 Q Now had you told him about the cutting before that date?

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1 A Probably not 'cause we did not speak really.

2 Q Okay. So he wouldn't have known about it unless you had
3 told him? Yes or no.

4 A Probably not.

5 Q And did you usually involve him in issues to -- with
6 Alyssa?

7 A Not always.

8 Q Had you involved him in issues with Alyssa before?

9 A Which issues? I mean, if something come up, if he was in
10 her life at that time I would have told him.

11 Q Okay. How about in or around, I don't know, 2009?

12 A 2009?

13 Q Yes.

14 A I'm not exactly sure.

15 Q Okay. And did you ever have a family meeting with he and
16 Sarah and --

17 MS. JOHNSON: Objection; motions in limine.

18 MS. BAKER: Your Honor, I am not going to ask
19 about the irrelevant aspects. I'm asking about whether
20 there was a family meeting with these parties.

21 THE COURT: Without going into the purpose of the
22 family meeting?

23 MS. BAKER: Correct.

24 THE COURT: Okay. I'll allow.

25 BY MS. BAKER:

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(Videotape, 10-07-14; 10:28:49)

1 Q Did you ever have a family meeting with Derek and Sarah
2 and their kids and your husband to talk about Alyssa?

3 A I do not recall a family meeting.

4 MS. BAKER: Thank you. I have nothing further at
5 this time.

6 REDIRECT EXAMINATION

7 BY MS. JOHNSON:

8 Q Okay. Jennifer, you testified that a lot of the visits
9 were arranged through Sarah. Why was that?

10 A Me and Sarah had each other's number, I didn't have
11 Derek's number. I talked through Sarah. Sarah would
12 call, ask if -- if Alyssa could come over and see the
13 girls. The girls wanted to see Alyssa. Michelle has set
14 up arrangements for Alyssa.

15 Q Were you open to talking to Derek about visitation at that
16 time?

17 A If he had called I talked to him.

18 Q Uhm, between 8th grade and the beginning of 10th grade when
19 this was disclosed, did Alyssa ask to go visit her father
20 at all?

21 A Uhm, she asked if she could see the girls. I don't recall
22 Derek being mentioned.

23 Q I want to give you an opportunity to explain -- Ms. Baker
24 was asking you about an argument about Facebook. You said
25 it wasn't an argument. Explain that to the jury.

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(Videotape, 10-07-14; 10:28:49)

- 1 A Uhm, it wasn't an argument. It was me stating facts that
2 he did not come around for her birthday, Christmas, when
3 her step family called, txt --
- 4 Q No, I'm sorry, and we'll get to that in a minute.
- 5 A Oh.
- 6 Q The argument at the computer store.
- 7 A Oh, at the computer store.
- 8 Q Yes.
- 9 A Okay. Uhm, it wasn't an argument about Facebook. It was
10 me tellin' him that she was not allowed to sleep at the
11 computer shop, that I did not find that safe, and he
12 wanted to throw in, oh, yeah, well, you know, she's in on
13 Facebook right now and she's not supposed to be. I told
14 him Facebook's irrelevant right now. She's not supposed
15 to be sleeping here.
- 16 Q So he was attempting to bring Facebook into the
17 conversation?
- 18 A Yes, because I had no idea what she was doin' in there.
- 19 Q Now let's talk about the Facebook account exchange that
20 you were asked about.
- 21 A Uh-huh.
- 22 Q I believe Ms. Baker and you agreed that that occurred on
23 January 7, 2013?
- 24 A Correct.
- 25 Q What is the significance again of January 6?

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(Videotape, 10-07-14; 10:28:49)

- 1 A January 6 is Alyssa's birthday.
- 2 Q Okay. And you said you did not post anything derogatory.
- 3 A No.
- 4 Q Anywhere in that post did you call him a name?
- 5 A I did not see where I called him a name. I stated that he
- 6 didn't come around and that his measly \$65 a month didn't
- 7 do anything or something like that.
- 8 Q Is anything you said in that post untrue?
- 9 A No.
- 10 Q Did you use any foul language in that post?
- 11 A I don't believe I did.
- 12 Q And was that prompted by her birthday or by Christmas?
- 13 A Mainly her birthday.
- 14 Q Uhm, you said to the doctor, Simms, or someone at Dr.
- 15 Simms' office that the cutting had been going on for two
- 16 years. You said here today a year to a year and a half.
- 17 A Couple years. I -- I don't know exactly when it started.
- 18 I don't know the exact date.
- 19 Q But during the 8th grade?
- 20 A Yes.
- 21 Q Not something you marked on the calendar?
- 22 A No, it's not an event I want to celebrate.
- 23 MS. JOHNSON: Okay, thank you.
- 24 THE COURT: Okay, ma'am. You may stand down.
- 25 Witness, please?

(Videotape, 10-07-14; 10:28:49)

1 MS. JOHNSON: Your Honor, the People call Alyssa
2 Ward.

3 A L Y S S A W A R D,
4 called as a witness at 4:18:05, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. JOHNSON:

7 Q Hi, Alyssa.

8 A Hi.

9 Q How are you doing this afternoon?

10 A Good.

11 Q Okay. What's your date of birth?

12 A January 6th, 1998.

13 Q And who is your mother?

14 A Jennifer Houston.

15 Q Who is your father?

16 A Derek Rainbolt.

17 Q Do you see him in the courtroom today?

18 A Yes.

19 Q Could you please point to him and tell me what he's
20 wearing.

21 A A grey button-up shirt.

22 MS. JOHNSON: Your Honor, may the record reflect
23 the witness has identified the Defendant?

24 THE COURT: It will.

25 BY MS. JOHNSON:

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(Videotape, 10-07-14; 10:28:49)

- 1 Q Who do you live with now?
- 2 A My mother.
- 3 Q Anyone else in your home?
- 4 A My stepfather and siblings.
- 5 Q Okay. What's your stepdad's name?
- 6 A Timothy Houston.
- 7 Q And how many siblings do you have in the home?
- 8 A Two.
- 9 Q And are they older or younger than you?
- 10 A Younger.
- 11 Q Who are they?
- 12 A Shawn and Tyree.
- 13 Q Are they your half-brothers?
- 14 A Yes.
- 15 Q Uhm, have you ever lived with your father?
- 16 A No.
- 17 Q For any period of time?
- 18 A No.
- 19 Q Prior to, let's say, 8th grade how would you describe your
- 20 relationship with your dad?
- 21 A Uhm, on occasion I would see him.
- 22 Q Were you close to him?
- 23 A No, not really.
- 24 Q Do you know why you're here today?
- 25 A Yes.

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(Videotape, 10-07-14; 10:28:49)

- 1 Q Okay. What are you here to talk about today?
- 2 A The rape.
- 3 Q When did that happen?
- 4 A In -- before -- between the ages of 13 and 14.
- 5 Q Do you know what grade you were in in school?
- 6 A 8th.
- 7 Q And 8th -- what grade are you in now?
- 8 A 11th.
- 9 Q So this would be 2014-15 school year; right?
- 10 A Yes.
- 11 Q Have you skipped any grades or been held back any grades
- 12 since 8th grade?
- 13 A No.
- 14 Q So 8th grade would have been your 2011-2012 school year;
- 15 is that right?
- 16 A Yes.
- 17 Q And you said your birthday was January of '98, so you were
- 18 13 in January of 2011 when you entered 8th grade?
- 19 A Yes.
- 20 Q And 14 in January of 2012, and 14 until you left 8th
- 21 grade?
- 22 A Yes.
- 23 Q Now you said you're here to talk about a rape. Where did
- 24 that rape happen?
- 25 A At Computers Plus, computer store.

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(Videotape, 10-07-14; 10:28:49)

- 1 Q Okay. And is that on Airline Road in Fruitport Township
2 in the County of Muskegon and in the State of Michigan?
- 3 A Yes.
- 4 Q Okay. Uhm, do you know when during 8th grade that
5 happened?
- 6 A No.
- 7 Q Can you remember what season it was in?
- 8 A No.
- 9 Q And was it a weekend or was it a school night?
- 10 A I believe it was a school break.
- 11 Q And when you say a school break, what do you mean by that?
- 12 A Like a few days off of school.
- 13 Q Had you -- was this a time that you were visiting with
14 your father?
- 15 A Yes.
- 16 Q Okay. Where did you start your visit with your father
17 during that break?
- 18 A At the trailer park.
- 19 Q Okay. And is that where he lived at the time?
- 20 A Yes.
- 21 Q Who else was living in his home at that time?
- 22 A His girlfriend, Sarah.
- 23 Q All right. Was anybody else living with them?
- 24 A Just their daughters.
- 25 Q How old are their daughters?

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(Videotape, 10-07-14; 10:28:49)

- 1 A Now?
- 2 Q Now.
- 3 A I'm not sure.
- 4 Q All right. How old were they in 8th grade?
- 5 A Probably like 3 and maybe 1 or 2.
- 6 Q So those would be your half-sisters?
- 7 A Yes.
- 8 Q Did you have a close relationship with them?
- 9 A Yes.
- 10 Q And how was your relationship with Sarah?
- 11 A Good.
- 12 Q At some point did Sarah and the girls leave the trailer?
- 13 A Yes.
- 14 Q Okay. Do you know where they went?
- 15 A Sarah had to work and the girls were going to Sarah's
- 16 mom's.
- 17 Q At that point was there anyone else in the trailer aside
- 18 from you and your father?
- 19 A No.
- 20 Q What happened when it was you and he alone in the trailer?
- 21 A He said he needed to go clean up the shop so he could open
- 22 up the next day.
- 23 Q And did he ask you to go with him?
- 24 A Yes.
- 25 Q Did you do so?

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(Videotape, 10-07-14; 10:28:49)

- 1 A Yes.
- 2 Q All right. And that's to the shop on Airline Road in
- 3 Fruitport?
- 4 A Yes.
- 5 Q Okay. What happened when you got to the shop?
- 6 A Uhm, we just start -- picked up the shop and cleaned it.
- 7 Q Was it open for business that day?
- 8 A No.
- 9 Q What kind of store is that if you know or shop?
- 10 A Computer store, repair.
- 11 Q Computer repair? Can you describe the layout of it?
- 12 A It was a big, open area, and in the back there was -- it
- 13 was sort of L-shaped and there were two rooms in the back.
- 14 Q And what was in the rooms in the back?
- 15 A Uhm, the first one was an office area and then on the
- 16 other side of that there was a air mattress and garbage.
- 17 Q Was there also a bathroom back there?
- 18 A Yes.
- 19 Q At some point did you go into the back room?
- 20 A Yes.
- 21 Q What were you doing in the back room?
- 22 A I was watching Netflix on the computer.
- 23 Q And where were you in the back room when you were watching
- 24 Netflix?
- 25 A On the air mattress.

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(Videotape, 10-07-14; 10:28:49)

1 Q At some point did your dad come back into the back room
2 with you?

3 A Yes.

4 Q Describe what happened when he came back there.

5 A He came back and he told me that I needed to get ready for
6 bed because he had to get up early the next day.

7 Q Did he make a move to take you home to go to bed at the
8 trailer?

9 A No.

10 Q Where did -- where did he expect you to sleep then?

11 A He moved onto the air mattress and I guess assumed we were
12 both sleeping there.

13 Q Did you continue to watch the movie?

14 A For a while, yeah.

15 Q Okay. At some point did you get up and play a video game?

16 A Yes.

17 Q Okay. While you were playing the video game did your dad
18 say anything to you?

19 A Yes. He told me I needed to lay back down and get ready
20 for bed.

21 Q Did you do so?

22 A Yes.

23 Q Was there -- how many air mattresses were in the back?

24 A One.

25 Q Were you both on that one air mattress?

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(Videotape, 10-07-14; 10:28:49)

- 1 A Yes.
- 2 Q When you got back in the bed were you watching the movie
- 3 again?
- 4 A Yes.
- 5 Q Okay. Describe where your father was when you were
- 6 watching that movie. Was he watching it with you?
- 7 A Yeah. He was laying next to me on the air mattress.
- 8 Q Okay. And what, if anything, was he doing while you were
- 9 watching that movie?
- 10 A More like -- I guess you would call it cuddling.
- 11 Q Did you think anything of that at that time?
- 12 A No, not necessarily.
- 13 Q At some point did he leave the bed?
- 14 A Yes.
- 15 Q Where did he go?
- 16 A He went out to the front and turned the lights out.
- 17 Q Okay. And when he returned what was he wearing?
- 18 A He was wearing jeans and a shirt, t-shirt.
- 19 Q At some point did he go to the bathroom?
- 20 A Yes.
- 21 Q When he came back from the bathroom what was he wearing?
- 22 A Boxers and a t-shirt.
- 23 Q What happened when he came back in his boxers?
- 24 A He laid back down and told me to move over.
- 25 Q Okay. And did you do so?

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(Videotape, 10-07-14; 10:28:49)

- 1 A Yes.
- 2 Q Okay. Did he say anything else at that point?
- 3 A Yeah. He told me that I couldn't sleep in jean shorts
- 4 because it'd be uncomfortable.
- 5 Q And did you take off your jean shorts at that time?
- 6 A Yes.
- 7 Q What happened after that?
- 8 A Then he told me to turn the movie off.
- 9 Q Did you do so?
- 10 A Yes.
- 11 Q Okay. What happened after you turned the movie off?
- 12 A He called me back over to the bed and told me to climb on
- 13 top of him.
- 14 Q What were you wearing at that time?
- 15 A My underwear and a tank top.
- 16 Q Did he tell you to do anything with your clothing?
- 17 A He told me to take my underwear off.
- 18 Q Did you immediately do so?
- 19 A No.
- 20 Q Why not?
- 21 A Because I was confused and I wasn't sure what was going
- 22 on.
- 23 Q Did he ask you a second time?
- 24 A He told me.
- 25 Q Told you a second time.

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(Videotape, 10-07-14; 10:28:49)

- 1 A Yes.
- 2 Q How did you react the second time he told you remove your
- 3 underwear?
- 4 A I was more numb and I just did what he said.
- 5 Q Okay. What happened after you took your underwear off?
- 6 A I went to climb over him.
- 7 Q And did you do so?
- 8 A Yes.
- 9 Q What happened then?
- 10 A He told me to lower myself onto him.
- 11 Q Did you do so?
- 12 A Yes.
- 13 Q What was he wearing at that time?
- 14 A He had lowered his boxers.
- 15 Q So he was nude?
- 16 A Yes.
- 17 Q From the waist down at least? Did he penetrate you?
- 18 A Yes.
- 19 Q Okay. What part of his body entered what part of your
- 20 body?
- 21 A His penis to my vagina.
- 22 Q How were you reacting when this was happening?
- 23 A I didn't say anything. I just sat there.
- 24 Q How did it end?
- 25 A He told me to get off of him and go clean myself up.

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(Videotape, 10-07-14; 10:28:49)

- 1 Q Did he at any point ask if you'd ever done that before?
- 2 A Yes.
- 3 Q What did you tell him?
- 4 A No.
- 5 Q What was his reaction when you told him that?
- 6 A He just chuckled a little bit.
- 7 Q How long did it last?
- 8 A I don't know.
- 9 Q Did you end up sleeping at the computer store that night?
- 10 A No.
- 11 Q Do you need a moment?
- 12 A Uhm --
- 13 Q Do you need a glass of water?
- 14 A No, thank you.
- 15 Q Where did you go instead of sleeping at the computer
- 16 store?
- 17 A He brought me to Sarah's mom's.
- 18 Q When you got there who was there?
- 19 A The girls and Sarah's mom and her dad.
- 20 Q Did you talk to anybody when you got there?
- 21 A I said hi to Michelle, Sarah's mom, and then I went to
- 22 bed.
- 23 Q When you stay at Sarah's mom -- Sarah's mom's home do you
- 24 have your own room?
- 25 A Sort of. I shared it with Zoey.

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- 1 Q Okay. Did you tell Sarah's mom?
- 2 A No.
- 3 Q Why not?
- 4 A I was scared.
- 5 Q Did you tell anyone about this right away?
- 6 A No.
- 7 Q Why not?
- 8 A At first I was scared, I didn't know what would happen,
- 9 and then over time I started to tell myself maybe it
- 10 didn't really happen.
- 11 Q Do you know if you -- well, who is the very first person
- 12 you told?
- 13 A My friend, Andrea.
- 14 Q When did you tell Andrea?
- 15 A February of the year before last, maybe, or last year.
- 16 Q What year in school were you?
- 17 A Freshman in high school.
- 18 Q So about a year and a half ago?
- 19 A Yeah.
- 20 Q Okay. Where were you when you told Andrea?
- 21 A Andrea's house.
- 22 Q What were you doing there?
- 23 A Eating dinner.
- 24 Q And what made you tell Andrea this?
- 25 A Because she had found out I had been self-harming again

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1 and she kept asking why I was doing it and threatened to
2 tell.

3 Q Okay.

4 A I mean, for doing it if I didn't give her a reason why.

5 Q Did she encourage you to tell anyone?

6 A Yes.

7 Q Who did she encourage you to tell?

8 A She told me I needed to tell my mom.

9 MS. BAKER: Objection; hearsay.

10 THE COURT: Sustained. The jury may not consider
11 what someone else told her.

12 MS. JOHNSON: Your Honor, it's not an assertion.
13 There's no truth to it. It's an encouragement to tell
14 somebody something. There is no assertion being made.

15 THE COURT: Offered to prove that she made that
16 statement to her only?

17 MS. JOHNSON: That -- that -- just to prove that
18 she encouraged her to tell someone.

19 THE COURT: Okay. Then that -- if she's offering
20 it just to prove that she made that encouragement, that
21 would not be hearsay, I agree. The objection will be
22 overruled if that's the only purpose, and that's the only
23 purpose the jury may consider it for.

24 BY MS. JOHNSON:

25 Q Did you follow her advice and tell anyone?

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(Videotape, 10-07-14; 10:28:49)

- 1 A No.
- 2 Q Why not?
- 3 A At that point it was -- I was more scared that they
- 4 wouldn't believe me.
- 5 Q You mentioned that you had been self-harming.
- 6 A Yes.
- 7 Q What -- can you tell the jury exactly what you mean by
- 8 that?
- 9 A I was cutting myself.
- 10 Q And what were you using to cut yourself?
- 11 A A razorblade.
- 12 Q Where on your body were you cutting yourself?
- 13 A My thighs and forearms.
- 14 Q How deeply were you cutting yourself?
- 15 A I don't know.
- 16 Q Why were you doing it?
- 17 A It was an escape from the emotional pain.
- 18 Q Did it cause you physical pain?
- 19 A Yes.
- 20 Q When was the very first time that you started cutting
- 21 yourself?
- 22 A I don't know.
- 23 Q Had you cut yourself at all before the rape that you just
- 24 described?
- 25 A No, not really. There were a few occasions where I'd

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1 heard about it and I would scratch myself, but that was
2 all.

3 Q But no razorblades before the rape?

4 A No.

5 Q No cuts -- actual intentional cuts before the rape?

6 A No.

7 Q All right. There were multiple times that your mother
8 found out you were cutting yourself; correct?

9 A Yes.

10 Q And she would ask you about it. Why didn't you tell her
11 the first time that she asked about it?

12 A I was scared she wouldn't believe me.

13 Q I want to take your attention to August of last year,
14 2013. Did there -- was there a time that your mom
15 confronted you about the cutting again?

16 A Yes.

17 Q Do you know what prompted her to ask you about the cutting
18 again?

19 A She came into my room and picked up a jewelry box and it
20 was where the blades were and she had dropped it and they
21 had fallen out.

22 Q And when we're talking blades, are you talking about just
23 standard razorblades?

24 A Yes.

25 Q Did she ask you why you were cutting?

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- 1 A Yes.
- 2 Q The very first time she asked you on August 6 did you tell
- 3 her?
- 4 A No.
- 5 Q How long did it take before you did eventually tell her?
- 6 A Until she threatened to send me to live with my father.
- 7 Q What was your emotional reaction to that?
- 8 A Just started bawling, crying.
- 9 Q And at that point did you tell her why you had been
- 10 cutting yourself?
- 11 A Yes.
- 12 Q And what did you tell her?
- 13 A I was raped.
- 14 Q Did you tell her who had raped you?
- 15 A Yes.
- 16 Q And who did you tell her had raped you?
- 17 A My father.
- 18 Q Did you tell her where it had happened?
- 19 A Yes.
- 20 Q Where did you tell her it happened?
- 21 A At Computers Plus.
- 22 Q Did you give her the details you gave the jury today?
- 23 A Yes.
- 24 Q After that did -- did any uniformed police officer ever
- 25 interview you?

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(Videotape, 10-07-14; 10:28:49)

- 1 A Yes.
- 2 Q Okay. And where did that happen?
- 3 A At my house.
- 4 Q And during that interview did you give the details of what
- 5 had happened?
- 6 A Yes.
- 7 Q Okay. Were you then taken also to the Child Advocacy
- 8 Center?
- 9 A Yes.
- 10 Q And did you give an interview there?
- 11 A Yes.
- 12 Q Was that to a person named Kim Watson?
- 13 A Yes.
- 14 Q And was that the same disclosure that you made to the jury
- 15 today?
- 16 A Yes.
- 17 Q I'm going to talk about the cutting. Were there occasions
- 18 that would make you cut more frequently or more?
- 19 A When I was upset.
- 20 Q What type of things would upset you to cause you to cut
- 21 more?
- 22 A If I had had a argument with my parents or anything that
- 23 would push me in that direction. I couldn't emotionally
- 24 handle things as well as I should have been able to.
- 25 Q Were there times when people told you you look like your

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1 dad?

2 A Yes.

3 MS. BAKER: Objection; leading.

4 THE COURT: Sustained. Please rephrase the
5 question.

6 BY MS. JOHNSON:

7 Q Has anyone ever told you you look like your dad?

8 MS. BAKER: Again, this is leading.

9 MS. JOHNSON: It calls for a yes or no answer.

10 THE COURT: Overruled.

11 A Yes.

12 THE COURT: Form of the question is appropriate.

13 BY MS. JOHNSON:

14 Q Was that between the rape and the disclosure?

15 A Yes.

16 Q And how would you react when people would say those type
17 of things to you?

18 A I wouldn't comment on it.

19 Q What would -- would that have an emotional reaction for
20 you?

21 A Yes.

22 Q And how would you deal with that emotional reaction?

23 A Cutting.

24 Q Uhm, after you went to the Child Abuse Center did you go
25 to DeVos Children's Hospital?

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1 A Yes.

2 Q And while there did you have a medical exam?

3 A Yes.

4 Q Before the medical exam did you -- were you interviewed by
5 the medical staff there?

6 A Yes.

7 Q And did you tell them what you told the jurors today?

8 A Yes.

9 Q What did you tell them?

10 A That I was raped by my father.

11 Q And did you tell them that it happened in the computer
12 store?

13 A Yes.

14 MS. BAKER: This is cumulative and it's also
15 another hearsay statement. It's an out of court statement
16 by this declarant.

17 THE COURT: Well, it doesn't violate the
18 confrontation clause since the witness is available for
19 cross-examination, and the Court will allow the testimony.

20 BY MS. JOHNSON:

21 Q Tell the jury what you told them.

22 THE COURT: Well, wait a minute.

23 MS. JOHNSON: We've not argued prior -- this is
24 just a prior consistent statement.

25 THE COURT: No, no, no. Right, right. You

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1 haven't attacked it with prior inconsistent (inaudible.)
2 I agree. At this point you're premature. The objection
3 is sustained.

4 BY MS. JOHNSON:

5 Q Okay. Can you tell the jury about the actual medical exam
6 you had to have? What medical exam was that?

7 A I had to have my vagina examined.

8 Q Was that the first time you'd ever had that type of exam?

9 A Yes.

10 Q Have you been in therapy?

11 A Yes.

12 Q Okay. How long have you been in therapy for this?

13 A Since I told in August.

14 Q And how frequently do you go?

15 A Oh, it has -- it's varied between a week and two weeks.

16 Q In therapy have you talked about any other major traumas
17 in your life?

18 A Yes.

19 Q Have you seen any improvement with therapy?

20 A Yes.

21 Q Okay. Tell the jury about what improvements you've seen.

22 A I've stopped cutting and all around I'm just happier.

23 Q Prior to therapy how was your relationship with your mom
24 and Tim and your brothers?

25 A Distant.

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(Videotape, 10-07-14; 10:28:49)

- 1 Q And how is it now?
- 2 A Better, a lot better.
- 3 Q Do you think that's because of therapy?
- 4 A Yes.
- 5 Q And prior to the therapy how was your relationship with
- 6 your friends?
- 7 A Close.
- 8 Q How many friends did you have at that point?
- 9 A Not many.
- 10 Q And have you seen a difference in your friendships since
- 11 therapy?
- 12 A Yes.
- 13 Q And do you think that's because of therapy?
- 14 A Yes.
- 15 Q Can you tell the jury how your friendships are different
- 16 now?
- 17 A They're still all close but I have more friends now.
- 18 Q Have you taken on more activities at school recently?
- 19 A Yes.
- 20 Q Is that something you did before your disclosure and
- 21 before therapy?
- 22 A No, no.
- 23 Q Do you credit the therapy with allowing you to do those
- 24 things?
- 25 A Yes.

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(Videotape, 10-07-14; 10:28:49)

1 Q And tell the jury about what types of things you're doing
2 now.

3 A Theater club and extra credit activities after school for
4 government class.

5 Q Have you cut recently at all?

6 A No.

7 MS. JOHNSON: Okay. (Inaudible.)

8 THE COURT: Are you finished?

9 MS. JOHNSON: Yes.

10 THE COURT: Okay. You may cross-examine.

11 MS. BAKER: Your Honor, it's going to take more
12 than 15 minutes.

13 THE COURT: Okay, go ahead.

14 MS. BAKER: Oh, okay.

15 CROSS-EXAMINATION

16 BY MS. BAKER:

17 Q Alyssa, my name is Paula Baker and I represent
18 Mr. Rainbolt in this case who's your father; correct?

19 A Yes.

20 Q So this event occurred at his shop on Airline Road;
21 correct?

22 A Yes.

23 Q And do you recall whether he was only -- whether he was in
24 one location or more than one location during the time
25 that you would visit with him?

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(Videotape, 10-07-14; 10:28:49)

- 1 A One.
- 2 Q You only remember one location?
- 3 A He moved after -- shop -- he moved his shop after the
- 4 rape.
- 5 Q Okay. That's what you recall; correct?
- 6 A Yes.
- 7 Q Now you said that this occurred -- that you started out at
- 8 the trailer; is that correct?
- 9 A Yes.
- 10 Q All right. So in 8th grade you would have started school
- 11 September of 2011; correct?
- 12 A Yes.
- 13 Q And you're saying that you were in the 8th grade when this
- 14 happened; correct?
- 15 A Yes.
- 16 Q It wasn't the summer break; correct?
- 17 A No.
- 18 Q And it wasn't the summer between your 13th and 14th year?
- 19 A No.
- 20 Q So it would have been from September 2011 until you turned
- 21 14?
- 22 A Yes.
- 23 Q Okay. And do you recall if -- well, first of all, when
- 24 you start school in the fall do you wear shorts to school?
- 25 A No.

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- 1 Q No? Okay. So would this have been the spring or the
2 summer of 2012?
- 3 A I don't know.
- 4 Q You don't remember?
- 5 A No.
- 6 Q Or you don't know?
- 7 A I don't remember.
- 8 Q Okay. But you'd know that you wouldn't have worn shorts
9 in the beginning of the school year.
- 10 A Not to school.
- 11 Q Well, do you know -- it's the beginning of October right
12 now. Are there any school breaks in September or October?
- 13 A No.
- 14 Q All right. And when you talk about this trailer, what
15 trailer are you referring to?
- 16 A The one that him and Sarah lived in.
- 17 Q Okay. Now did you know that Derek and Sarah had sold that
18 trailer?
- 19 A Yes.
- 20 Q When did you learn that?
- 21 A Afterwards.
- 22 Q After what?
- 23 A After the rape.
- 24 Q After the rape? You learned of it or you knew that it had
25 been sold after that?

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(Videotape, 10-07-14; 10:28:49)

- 1 A It hadn't been sold until afterward.
- 2 Q Now would it surprise you that that trailer had been sold
- 3 in the fall of 2011?
- 4 A I don't remember.
- 5 Q That would have been the year that you would have been in
- 6 8th grade; right?
- 7 A I don't remember the exact time and date.
- 8 Q Well, you do remember that you would have started the 8th
- 9 grade in the fall, September of 2011; correct?
- 10 A Yes.
- 11 Q Now would it surprise you that the trailer was sold in
- 12 September of 2011?
- 13 A Yes.
- 14 Q That would surprise you. Okay. And at the time that this
- 15 what you termed the rape occurred, what was the
- 16 relationship between your father and Sarah?
- 17 A Together.
- 18 Q They were together?
- 19 A Yes.
- 20 Q Now they had had some times that they were separated;
- 21 correct?
- 22 A They were off and on often.
- 23 Q Okay. And this wasn't one of those times; correct?
- 24 A Not that I remember.
- 25 Q And can you tell me, do you recall the vehicles that were

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- 1 driven by your father and Sarah at the time that this
2 incident occurred?
- 3 A I know they had a van and a car.
- 4 Q They had a van and a car?
- 5 A Yes.
- 6 Q Okay. Do you recall what color the van was?
- 7 A Burgundy.
- 8 Q Burgundy van. And the car?
- 9 A I don't know.
- 10 Q Now you've testified before about this incident; correct?
- 11 A Yes.
- 12 Q And you took an oath to tell the truth?
- 13 A Yes.
- 14 Q At that previous hearing; correct?
- 15 A Yes.
- 16 Q Didn't you testify that it was a white car?
- 17 A I don't remember.
- 18 Q Well, would reviewing your testimony help?
- 19 A I don't know.
- 20 Q You don't know?
- 21 A I don't remember what color the vehicle was.
- 22 Q Okay. Now can you describe this mattress?
- 23 A It's a blue air mattress.
- 24 Q How big was it?
- 25 A I don't know, maybe a full size.

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(Videotape, 10-07-14; 10:28:49)

- 1 Q Maybe or you don't know?
- 2 A I don't know.
- 3 Q And where was it in this place?
- 4 A In the black -- in the back area.
- 5 Q Okay. Was it inside the office?
- 6 A No.
- 7 Q All right. Now at that prior court hearing you also
- 8 testified about how big the air mattress was; didn't you?
- 9 A I don't remember.
- 10 Q Okay. Well, you know, when they had that hearing, you
- 11 know you were sitting in front of a microphone; correct?
- 12 A Yes.
- 13 Q And there was somebody in the courtroom recording that
- 14 particular hearing. Do you recall that?
- 15 A Yes.
- 16 Q Then somebody types up what was said in the courtroom.
- 17 A Yes.
- 18 Q Did you know that?
- 19 A Yes.
- 20 Q And if I -- I'm looking at the typed up version of that
- 21 particular hearing. Would reviewing this particular
- 22 document refresh your recollection?
- 23 A I don't know.
- 24 Q Well, may I offer it to you to review?
- 25 A Sure.

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1 Q Okay. Let me make sure I get the right pages.

2 MS. JOHNSON: 16.

3 BY MS. BAKER:

4 Q Uh-huh, and 14, okay? Why don't you read -- I'm gonna
5 show this to you. This is from this case in your prior
6 testimony. It was on July 2nd of this year; correct?

7 A Yes.

8 Q Can you read pages 14 through 16?

9 A My part or both?

10 Q You can read the whole thing just to yourself. You don't
11 have to read it aloud. Are you done?

12 A Yes.

13 Q Do you remember what your testimony was then?

14 A It's right there.

15 Q I beg your pardon?

16 A What's right there.

17 Q Okay. Do you remember the color of the car?

18 A I don't recall saying it but it's typed out that it was
19 white.

20 Q Okay. And do you remember the air mattress being a twin
21 size mattress?

22 A Twin or full.

23 Q When I asked you how big was this air mattress in the back
24 room you said a twin size; correct?

25 A Then I said a twin or a full.

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1 MS. JOHNSON: Your Honor, I'd ask that the rule
2 of completeness apply and that the next four lines be read
3 into the record as well.

4 BY MS. BAKER:

5 Q That's fine. I ask a twin size air mattress and you said
6 twin or twin or full; correct?

7 A Yes.

8 Q And both you and your father were laying on this air
9 mattress.

10 A Yes.

11 Q In 2011 to 2012; correct?

12 A Yes.

13 Q Now I have to ask you. Is your time frame indicating that
14 this occurred before your 14th birthday?

15 A Yes.

16 Q Your 14th birthday would have been in 2012; correct?

17 A Yes.

18 Q And you had two visits with Sarah and your father in 2012;
19 correct?

20 A No.

21 Q No? How many visits did you have?

22 A I don't know, but it was more than two.

23 Q Okay. Do you remember a visit in May 2012?

24 A I don't remember the exact dates that I visited.

25 Q Okay. Do you keep a calendar at all?

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(Videotape, 10-07-14; 10:28:49)

- 1 A No. There was nothing set up. Whenever I was contacted
2 to go over I would.
- 3 Q Now did you ever post things on Facebook when you would go
4 visit?
- 5 A On occasion.
- 6 Q Did Sarah usually set these visits up?
- 7 A Sarah or her mother.
- 8 Q Her mother is Michelle; right?
- 9 A Yes.
- 10 Q Okay. Hang on a minute here. I'm trying to get this. I
11 want to show you what's been marked as Defendant's Exhibit
12 A. Do you recognize that?
- 13 A Yes.
- 14 Q What is that?
- 15 A A picture of me and my sisters.
- 16 Q And who are those sisters?
- 17 A Stormy and Zoey.
- 18 Q Okay. Which one is in the top picture?
- 19 A Stormy.
- 20 Q And who is she with?
- 21 A Me.
- 22 Q And the bottom picture?
- 23 A Zoey.
- 24 Q Okay. Where are these pictures from?
- 25 A The computer shop he bought after.

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(Videotape, 10-07-14; 10:28:49)

1 Q So this was at the computer shop?

2 A A different one than where the rape took place.

3 Q Okay. So this happened in 20 -- and the time frame for
4 this is 2012?

5 A Yes.

6 Q Was he there at the time that these pictures were taken?

7 A I don't remember. Most likely.

8 Q Well, would you be at the computer shop if he wasn't
9 there?

10 A Sarah has brought me to the computer shop.

11 Q By herself?

12 A Yes.

13 Q With the girls?

14 A He wasn't the only one who worked there. He had friends
15 up there all the time.

16 Q Okay. So it was kind of a busy place; wasn't it?

17 A On occasion.

18 Q Now would these be fair and accurate depictions of you in
19 2012?

20 A Yes.

21 Q On May 24th of 2012?

22 A Yes.

23 MS. BAKER: Move for admission of Defendant's A.

24 MS. JOHNSON: No objection.

25 THE COURT: Okay. Defendant's Exhibit A will be

(Videotape, 10-07-14; 10:28:49)

1 received. And then could you tell me what that is,
2 please?

3 MS. BAKER: It's photographs of the -- of this
4 witness and her stepsister -- her half-sisters.

5 THE COURT: Okay. Have you marked the exhibit?

6 MS. BAKER: I have marked it.

7 THE COURT: Okay, with the case number and the
8 date, please?

9 MS. BAKER: No, I haven't. I will do that
10 though.

11 THE COURT: Okay. You don't have to do it right
12 now but make sure we do that.

13 MS. BAKER: Sure.

14 BY MS. BAKER:

15 Q How did you and your dad -- you and your dad used to call
16 each other names; correct?

17 A Yes.

18 Q He'd call you punk; right?

19 A Yes.

20 Q Sometimes brat or something?

21 A Yes.

22 Q That was something he'd always done; correct?

23 A Yes.

24 Q Did you call him names as well?

25 A Yes.

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(Videotape, 10-07-14; 10:28:49)

1 Q What did you call him?

2 A Punk, brat, anything.

3 Q I want to show you what's been marked as Proposed Exhibit
4 B. Do you recognize that?

5 A Yes.

6 Q What is that?

7 MS. JOHNSON: I'd ask to see the exhibit before
8 it's testified to. Okay.

9 A A picture.

10 BY MS. BAKER:

11 Q And who is that picture of?

12 A Me.

13 Q And where's that picture at?

14 A In the computer shop.

15 Q That's at your dad's computer shop?

16 A Yes.

17 Q Okay. And who took this photograph?

18 A Him.

19 Q And where is it published?

20 A Facebook.

21 Q Okay. And did you make any comments regarding this
22 Facebook post?

23 A Yes.

24 MS. JOHNSON: Objection; hearsay.

25 THE COURT: I guess, are these assertive comments

(Videotape, 10-07-14; 10:28:49)

1 or -- I don't know.

2 MS. BAKER: No. This is her calling him a name.

3 THE COURT: Okay, that's not assertive. Go
4 ahead. It's not hearsay.

5 BY MS. BAKER:

6 Q Did you make a comment in here?

7 A Yes.

8 Q Is that your comment?

9 A Yes.

10 Q With respect to that picture you said thanks, dad, p.s.,
11 you're a douche?

12 MS. JOHNSON: Objection; irrelevance.

13 THE COURT: Overruled.

14 A Yes.

15 BY MS. BAKER:

16 Q Did you post that back on May 24th of 2012?

17 A Yes.

18 Q Is that a fair and accurate depiction of you on May 24th
19 of 2012?

20 A Yes.

21 MS. BAKER: Move for admission of Defendant's B.

22 MS. JOHNSON: No objection other than my previous
23 relevance objection.

24 THE COURT: Okay. It will be received then on
25 that basis.

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1 MS. JOHNSON: Thank you.

2 BY MS. BAKER:

3 Q You have a history of lying to your family; correct?

4 A Yes.

5 Q It's true that you lied -- you told Sarah that your
6 stepfather was cheating on your mother?

7 A I don't remember.

8 Q Would that have been a lie?

9 A I don't know.

10 Q But you told them that Tim was yelling at your mother?

11 A I don't remember.

12 Q And do you recall a family meeting with Sarah and Derek
13 and your mother and Tim --

14 A Yes.

15 Q -- and all of the kids coming to talk about your lying at
16 school?

17 A Yes.

18 Q You'd gotten in trouble for lying at school; correct?

19 A No.

20 Q But they were trying to come together to work on that?

21 A Yes.

22 Q What grade were you in when that happened?

23 A I don't know.

24 Q Was it before your 8th grade year?

25 A I don't remember.

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(Videotape, 10-07-14; 10:28:49)

- 1 Q Was that before the rape?
- 2 A I don't remember.
- 3 Q You also created a fake Facebook account; correct?
- 4 A No.
- 5 Q Isn't it true that you set up a Facebook account in the
- 6 name of a boy?
- 7 A No.
- 8 Q Isn't it true you were using that Facebook account to set
- 9 up relationships or friendships with other girls?
- 10 A No.
- 11 Q Is there a reason that your mom would tell people that?
- 12 A It wasn't Facebook.
- 13 Q Oh, it was a different database?
- 14 A Yes.
- 15 Q What database was it?
- 16 A Kik.
- 17 Q On Kik? So you set up a fake profile on that Kik?
- 18 A Yes.
- 19 Q What is Kik?
- 20 A Texting app.
- 21 Q A texting app. Were you -- did this occur before the
- 22 rape?
- 23 A No.
- 24 Q When did that occur?
- 25 A After.

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1 Q When after?

2 A I don't recall.

3 Q Well, if you can't recall after, is it possible it could
4 have been before the rape?

5 A No.

6 Q So you were using that to pretend to be a boy; correct?

7 A Yes.

8 Q And you made friendships with these young girls; correct?

9 A Yes.

10 Q And before you told your mom about this you had some
11 access to some pornography online; correct?

12 MS. JOHNSON: Objection, motions in limine.

13 MS. BAKER: Then perhaps we need to excuse the
14 jury, your Honor, and deal with that motion.

15 THE COURT: Okay. Have the jury step out
16 momentarily.

17 (Jury dismissed at 5:03:43.)

18 (Court resumes at 5:04:23.)

19 THE COURT: Okay. Ask the question again,
20 please.

21 BY MS. BAKER:

22 Q You had accessed pornography before you disclosed this
23 rape to your mother; correct?

24 A Yes.

25 THE COURT: Okay, and your objection?

(Videotape, 10-07-14; 10:28:49)

1 MS. BAKER: I'd asked Ms. Johnson about that
2 before we came to Court today and she indicated that it
3 was within the time frame that made it open to cross-
4 examination so I'm surprised at the objection.

5 THE COURT: What was the objection?

6 MS. JOHNSON: Judge, my note on the motion in
7 limine was that there was to be no discussion of the
8 pornography because it was not relevant.

9 MS. BAKER: No, I think the Judge had said that
10 the pornography would have to be evaluated at the time.

11 THE COURT: Okay. What is the purpose of asking
12 her this?

13 MS. BAKER: To show knowledge regarding the
14 event, knowledge regarding sex before the disclosure.

15 THE COURT: Okay.

16 MS. BAKER: Because inevitably the jury's going
17 to want to know where she got the knowledge from.

18 THE COURT: Okay. And your objection is?

19 MS. JOHNSON: Relevance in --

20 THE COURT: No. I think for a child this age it
21 would be relevant. I will allow it. Go ahead. You may
22 return the jury.

23 MS. BAKER: Okay. We need the jury back in or is
24 this the time to break? I don't know.

25 THE COURT: No, no. We're gonna finish this up.

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1 Okay, the jurors are cycling through the bathroom. I
2 don't want anybody leaving the courtroom. No, nobody
3 leaves the courtroom. Ma'am, nobody leaves the courtroom.
4 The jury's gonna be in the hallway. Nobody leaves the
5 courtroom. I'm sorry, but we only have one bathroom.
6 Just to explain to you, we only have one bathroom in the
7 jury room so we're gonna try to move this along by
8 allowing the jury to use the public bathroom and I don't
9 want to take any chances that the jury has any contact
10 with anybody involved in the case, so that's why I'm
11 asking everybody to remain in the courtroom. If you have
12 to go, as soon as the jury comes back you're free to do
13 whatever you want.

14 (Jury enters courtroom at 5:13:45.)

15 THE COURT: You may continue with your
16 examination, cross-examination, Ms. Baker.

17 MS. BAKER: Thank you, your Honor.

18 BY MS. BAKER:

19 Q So, Ms. Ward, I was asking you before we took a break,
20 before you disclosed this incident to your mother, you had
21 been caught looking at pornography; correct?

22 A Yes. I'd had sexual education class too.

23 Q You have looked at pornography on the internet?

24 A Yes.

25 Q Now isn't it true that you and Andrea were friends in

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1 middle school?

2 A No.

3 Q You weren't friends in middle school?

4 A I went to a different school.

5 Q Is it true that you had acted in a play in middle school?

6 A No.

7 Q You used to paint your face that would look like a cat to
8 go to school?

9 A No.

10 MS. JOHNSON: Objection; relevance.

11 THE COURT: What's the relevancy of that?

12 MS. BAKER: Well, your Honor, she's bringing up
13 this fact that she was in theater as this new event now
14 that she's been through therapy and I'm asking her about
15 the fact that she's been in theater before.

16 THE COURT: Okay. But what difference does it
17 make if she's dressed up like a cat? What's --

18 MS. BAKER: It's just more acting, your Honor.

19 THE COURT: Overruled -- or sustained rather.

20 BY MS. BAKER:

21 Q I want to show you this exhibit, Proposed Exhibit C. Do
22 you recognize this at all?

23 A Yes.

24 Q What is it?

25 A The computer shop layout.

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1 Q Okay. And there's a spot that says Computers Plus on it
2 or Computer Plus; correct?

3 A Yes.

4 Q Is that the location that you're saying this happened?

5 A There wasn't a wall that far.

6 Q Okay. Can you show us on this particular diagram where
7 this event occurred?

8 A This looks like it's the layout but there's no hall. It's
9 missing in part.

10 Q Now let me just clarify. Don't think of the words as
11 defining which space is which. Show us where in there
12 this occurred.

13 A There's not a spot that looks like it. There were two
14 front rooms and this back wasn't connected.

15 Q Okay. Could it have been in a different unit that's
16 described in there or shown in that picture?

17 MS. JOHNSON: Objection; asked and answered.

18 THE COURT: Well, I'll allow you to cross-examine
19 a little bit further on this, not much further since she's
20 already answered to a certain extent. Go ahead.

21 A What was your question?

22 BY MS. BAKER:

23 Q Could it be in a different unit? This is supposedly the
24 units that are in that strip mall.

25 A Yes.

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- 1 Q Okay. Where did this incident occur in those units?
- 2 A This layout doesn't look -- it's not shaped the same way.
- 3 Q You're referring to the shaded spot?
- 4 A Yes.
- 5 Q Is there another unit that looks like it?
- 6 A No. It looks like this one, but there's more to it. It's
- 7 not just what's shaded. This area right here, that led
- 8 into the vacant lot.
- 9 Q Okay.
- 10 A Was opened too. When he was in this one, he still had
- 11 access to the nextdoor room. He used the shower and stuff
- 12 there because he was living in the shop later on.
- 13 Q Okay. Thank you. Now you -- wasn't it the regular
- 14 practice that you would spend some time during Christmas
- 15 with your father and Sarah and her family as well?
- 16 A When they contacted me to see if I wanted to go over.
- 17 Q Is it fair to say that the last Christmastime period would
- 18 have been the Christmas 2011?
- 19 A I guess.
- 20 Q You guess?
- 21 A I don't remember.
- 22 Q Now you're not saying that this event occurred over the
- 23 Christmas holiday of 2011; are you?
- 24 A No.
- 25 Q So it had to have occurred before Christmas of 2011 but

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- 1 after September of 2011?
- 2 A I don't remember.
- 3 Q Is it fair to say that a lot of your communications with
- 4 Sarah were via Facebook?
- 5 A She mostly contacted my mom.
- 6 Q Did you communicate with Sarah via Facebook?
- 7 A Not that I recall.
- 8 Q Did you communicate with your mother via Facebook?
- 9 A No, not that I recall.
- 10 Q Now in January of 2013, I want to say the day after your,
- 11 would have been your 15th birthday, was there -- do you
- 12 recall a Facebook post involving your mother and your dad,
- 13 Sarah --
- 14 A Yes.
- 15 Q -- and even your stepdad?
- 16 A Yes.
- 17 Q And there was some would it be fair to say heated words?
- 18 A Yes.
- 19 Q In that exchange? I'm sorry?
- 20 A Yes.
- 21 Q And were you angry during that Facebook conversation?
- 22 A Yeah.
- 23 Q And you were kinda mad with your dad; weren't you?
- 24 A Yes.
- 25 Q And that was in January of 2013; correct?

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- 1 A Yes.
- 2 Q Isn't it true you said it's plain as day to me, I finally
- 3 see the light?
- 4 A Yes.
- 5 Q You didn't go tell your mom about this rape at that time;
- 6 did you?
- 7 A No.
- 8 Q Well, you knew she wasn't happy with your dad; correct?
- 9 A Yes.
- 10 Q Now you testified that Andrea found out you were cutting
- 11 again. When had you been cutting before?
- 12 A I don't remember.
- 13 Q Do you remember how old you were the first time?
- 14 A No.
- 15 Q Do you remember what grade you were in?
- 16 A No.
- 17 Q Were you in counseling in February of 2013?
- 18 A I don't remember.
- 19 Q Well, can you -- you were in counseling after August of
- 20 2013; correct?
- 21 A Yes.
- 22 Q And you were in counseling sometime before that; correct?
- 23 A Yes.
- 24 Q Were you in counseling before this rape?
- 25 A Yes.

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1 Q Were you in counseling between the rape and August of
2 2013?

3 A No. I don't remember.

4 Q Now on the date that this event, this alleged rape
5 occurred, did your mom come pick you up from Michelle's
6 house?

7 A Next day.

8 Q Your mom came the next day?

9 A Yes.

10 Q I'm sorry, I have to make notes while I'm standing here.
11 What's your relationship with Andrea?

12 A Best friend.

13 Q Best friend? How long have you been best friends?

14 A Two years.

15 Q Do you see her at school every day?

16 A Yes.

17 Q Frequently would spend nights together?

18 A Yes.

19 Q How often would you spend nights together?

20 A I don't know.

21 Q I'm sorry, I have to hear the words --

22 A I said I don't know.

23 Q Okay. I didn't hear you. You've been interviewed by
24 counselors, medical personnel, your mom, the police
25 officer, the DHS worker; correct?

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- 1 A Yes.
- 2 Q Prosecuting attorneys?
- 3 A Yes.
- 4 Q Do you know how many times you've been interviewed by the
5 prosecutor?
- 6 A No.
- 7 Q Do you know how many times you've been interviewed period?
- 8 A No.
- 9 Q And you were interviewed by a police officer at your house
10 the day that you told your mom?
- 11 A Not that day.
- 12 Q Is that what I recall your testimony being?
- 13 A I don't remember.
- 14 Q Okay. I'm asking you about earlier today.
- 15 A Yes, I know. I'm trying -- I don't remember.
- 16 Q Oh.
- 17 A I recall earlier that I said I was asked at my house, but
18 I don't believe it was the same day.
- 19 Q But you were interviewed by the police officer at your
20 house?
- 21 A I believe so.
- 22 Q Other than this medical exam at the hospital, you haven't
23 been treated medically for anything related to this
24 disclosure; correct?
- 25 A No.

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1 MS. BAKER: Just a moment. I have no further
2 questions at this time.

3 THE COURT: Okay. Any redirect?

4 REDIRECT EXAMINATION

5 BY MS. JOHNSON:

6 Q Okay, Alyssa, the Kik profile that you talked about on
7 cross, was that before or after the rape?

8 A After.

9 Q Okay. And was that before or after the disclosure, I mean
10 when you told your mom?

11 A Before.

12 Q Was that before or after therapy?

13 A Before.

14 Q Uhm, when did you and Andrea meet?

15 A We had met in 7th grade but we didn't talk much. We
16 didn't really start talking until freshman year.

17 Q On -- I just want to be clear on this diagram. I couldn't
18 see everything that you were pointing out to Ms. Baker.
19 Do you know for sure which unit this occurred in?

20 A No.

21 Q Okay. And you said the walls look like they are not the
22 same that they were then?

23 A Yes.

24 Q I know Ms. Baker asked you about wearing shorts to school.

25 A Yes.

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1 Q Okay. Do you wear shorts outside of school?

2 A Yes.

3 Q At the beginning of the school year?

4 A Yes.

5 Q In January of 2013 after that Facebook exchange, did that
6 give you any reason to tell your mom about the rape?

7 A No.

8 Q Did it make you think about telling her at all?

9 A No.

10 Q And you said Andrea found out you were cutting again and
11 that's when she confronted you; right?

12 A Yes.

13 Q Had you ever cut before the rape?

14 A Not that I remember.

15 Q Had Andrea known you were cutting before?

16 A Before?

17 Q Before the time that you told her about the rape.

18 A Yes.

19 Q And was that when she -- when she knew about the cutting
20 before the day that you told her about it, was that
21 sometime in 9th grade or was that --

22 MS. BAKER: Objection; leading.

23 BY MS. JOHNSON:

24 Q -- or was that in middle school?

25 THE COURT: The -- okay. Not the way she

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1 completed the question, it's not really leading.

2 A It was freshman year.

3 BY MS. JOHNSON:

4 Q Do you know if your father used a condom when he raped
5 you?

6 A I believe he did.

7 Q The thing that you told Andrea, did you tell her the same
8 version of events that you told the jury?

9 A Yes.

10 MS. BAKER: Objection. This is a prior
11 consistent statement.

12 MS. JOHNSON: Your Honor, the victim's
13 credibility has now been attacked on cross-exam and prior
14 consistent statements are admissible.

15 THE COURT: To prove only her credibility, not to
16 prove the truth of the statement that you are referring
17 to.

18 MS. JOHNSON: Correct. Since her credibility has
19 been attacked --

20 THE COURT: Okay. You may -- you may
21 rehabilitate the witness with a prior consistent
22 statement, and the jurors are instructed this only
23 addresses whether or not you should believe the witness in
24 Court, not whether or not what she said in this out of
25 court statement is true.

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1 BY MS. JOHNSON:

2 Q Did you get into as much detail with Andrea as you got
3 into with the jury today?

4 A No.

5 Q When you spoke to Kim Watson at the Child Abuse Council,
6 did you tell her the same version of events that you told
7 the jury today?

8 A Yes.

9 Q And was that in detail?

10 A Yes.

11 Q And when you spoke to the medical doctors and nurses, did
12 you give them the same version of events that you gave
13 today?

14 A Yes. When I had interviews it was required that I use
15 detail.

16 Q You indicated that your father moved shops after the rape?

17 A Yes.

18 Q How do you know that?

19 A After I had stopped going after the rape and I visited a
20 few times afterward with the girls, and one of the times
21 Sarah brought us to the shop.

22 Q And the pictures that were taken in 2012 that have been
23 admitted into evidence, were those at the same shop or at
24 the new shop?

25 A The new shop.

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1 Q So by May of 2012 he was in a different shop?

2 A Yes.

3 Q Do you know how many shops he was in total?

4 A Just the two that I know of.

5 Q Do you remember going to any of the shops at all after
6 those pictures were taken?

7 A No.

8 MS. JOHNSON: Thank you.

9 MS. BAKER: Your Honor, if I could just get a
10 couple things before we finish with her, please.

11 THE COURT: If you could what?

12 MS. BAKER: Just get a couple questions in. I
13 need to --

14 THE COURT: Yeah, go ahead. You can recross,
15 absolutely.

16 MS. BAKER: Okay, thank you.

17 RECROSS-EXAMINATION

18 BY MS. BAKER:

19 Q Ms. Ward, I need you to circle on this diagram where you
20 say this occurred and then put your initials by it.

21 MS. JOHNSON: I'd object. The witness just said
22 she wasn't sure which one it was.

23 MS. BAKER: She indicated an area that looked
24 like the place that she said it was, that's what I'm
25 asking her to circle.

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1 MS. JOHNSON: Your Honor, I'd ask that the Court
2 be addressed.

3 THE COURT: That what?

4 MS. JOHNSON: I'd ask the Counsel to address the
5 Court.

6 THE COURT: Okay, all right. Well, I'll allow
7 you to circle the area where she believed it was.

8 MS. BAKER: Okay.

9 A (Witness complies.)

10 BY MS. BAKER:

11 Q Now, Ms. Ward, you testified earlier that you had started
12 at some point scratching yourself; correct?

13 A Yes.

14 Q Had you read about that?

15 A No.

16 Q Talked to someone about it?

17 A No, not that I remember.

18 Q And that was -- that occurred before the rape; correct?

19 A I don't recall.

20 Q I thought I recall your testimony meaning that you had --
21 you didn't start cutting until the rape.

22 A Yes.

23 Q Before that, you were doing other injury; correct?

24 A It's a possibility.

25 Q It's a possibility?

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(Videotape, 10-07-14; 10:28:49)

1 A I don't recall exact times.

2 MS. BAKER: Thank you. I have nothing further.

3 THE COURT: Any re redirect?

4 MS. JOHNSON: No.

5 THE COURT: Okay, thank you, ma'am. You may
6 stand down. Okay. Do you have another witness ready?

7 MS. JOHNSON: Yes. The People call Andrea
8 Tindall.

9 THE COURT: Do you know how long this witness is
10 going to be?

11 MS. JOHNSON: She will be brief.

12 THE COURT: Very brief? Okay.

13 A N D R E A T I N D A L L,

14 a witness called at 5:37:53, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. JOHNSON:

17 Q Andrea, do you know someone named Alyssa Ward?

18 A I do.

19 Q How do you know her?

20 A She's my best friend.

21 Q When did you become friends with Alyssa?

22 A In 9th grade.

23 Q Did you know her before 9th grade?

24 A I did but we spoke a little bit but not as we do now.

25 Q Okay. And -- excuse me one moment. Okay. So in 9th

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1 grade you were friends?

2 A Yes.

3 Q How close is your friendship?

4 A Very close.

5 Q And in 9th grade were there occasions when you had
6 sleepovers with her?

7 A There was.

8 Q Do you recall a sleepover at which she told you something
9 about her father?

10 A Yes.

11 Q Was there anyone else there that night sleeping with you
12 guys?

13 A No.

14 Q Okay. How did this happen to come up?

15 A A few days before I had told her something about myself
16 that not many people knew and she decided that she should
17 tell me that.

18 Q Okay. What did she say happened?

19 A She said that, uhm, her father --

20 MS. BAKER: I'm gonna object to hearsay.

21 MS. JOHNSON: Your Honor, this comes in under the
22 same hearsay rule, her prior consistent statements under
23 801(D) (1) (e).

24 THE COURT: Okay. At this time we'll excuse the
25 jury and we'll excuse you for the evening. We have an

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1 evidentiary question to take up and I don't want to keep
2 you here while we're doing that. So I will instruct you
3 that you are allowed to retire to your home or work or
4 wherever you gotta go for the evening. I just want to
5 remind you you're not to discuss the case with anyone.
6 You're not to have any discussion with anyone involved in
7 the case. You're not to do any experiments or
8 investigations of your own or read any -- or listen to any
9 media accounts of this event, but other than that you're
10 free to go about your business, and we'd like to have you
11 return here tomorrow morning at 9:30. If you'd assemble
12 in the jury room, press the buzzer when you're ready,
13 we'll be ready to re-commence. Okay.

14 (Jury dismissed at 5:41:32.)

15 THE COURT: Okay. Now you're trying to admit
16 this under 801(D) what?

17 MS. JOHNSON: (D)(1)(B), for a prior consistent
18 statement. It requires the declarant be present to
19 testify and subject to cross-examination, which already
20 occurred.

21 THE COURT: Right.

22 MS. JOHNSON: She is still under subpoena.

23 THE COURT: Right, agreed.

24 MS. JOHNSON: It requires -- it requires --

25 THE COURT: So you're trying to introduce it as

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1 substantive evidence then?

2 MS. JOHNSON: Yes.

3 THE COURT: And say it's not hearsay.

4 MS. JOHNSON: Yes.

5 THE COURT: Okay. Go ahead.

6 MS. BAKER: Well, your Honor, if I can respond.

7 THE COURT: Well, no, she hasn't finished.

8 MS. BAKER: Okay.

9 THE COURT: Or have you? I don't know.

10 MS. JOHNSON: Well, it's a consistent statement
11 to show the, you know, now that her credibility has been
12 attacked, that this statement was made before there was a
13 purpose for fabrication or -- or -- wait, what does it
14 say? A recent fabrication or improper influence or
15 motive. I think that it's been made clear that the
16 alleged motive for fabrication is this argument with her
17 mother, the threat to go live with her father and being
18 angry at her father. This prior consistent statement
19 maybe -- was made well before any of those allegations or
20 any of those reasons for fabrication occurred. It was
21 made at a slumber party during the 9th grade year, which
22 was well before the disclosure actually came and is under,
23 you know -- has no -- none of the same motives as telling
24 her mother had.

25 THE COURT: Okay. When is it claimed that the

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1 motive to fabricate took place, arose?

2 MS. JOHNSON: When her mother -- when her mother
3 threatened to have her live with her father.

4 THE COURT: Okay. And did this statement that
5 the victim made to this declarant here, or to this witness
6 rather, did that take place before that or after that?

7 MS. JOHNSON: Before.

8 THE COURT: It took place before her mother
9 threatened to have her move in with her father?

10 MS. JOHNSON: Yes.

11 THE COURT: Okay. Any response you want to make
12 to that, Ms. Baker?

13 MS. BAKER: Your Honor, I think that the court
14 rule or the rule of evidence addresses an indication of a
15 recent fabrication, and I'm not saying that there's a
16 recent fabrication. That is not the implication in this
17 particular case or improper influence by other people or
18 motives. I can't even speak to this young lady's motive,
19 but I'm not alleging recent fabrication and I think that
20 that rule only allows it in those very limited
21 circumstances.

22 THE COURT: Well, what is your alleged motive for
23 her to fabricate?

24 MS. BAKER: Her motive for ly -- I don't have a
25 motive for her lying. I don't know what it is, your

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1 Honor.

2 THE COURT: Well, didn't you bring out the fact
3 that her mother had threatened to take her to her dad's or
4 send her to her dad's?

5 MS. BAKER: That's what the prosecution alleged
6 or they've presented that evidence; I didn't.

7 THE COURT: Okay. So you're not alleging that
8 she has any motive to fabricate that. You're not gonna
9 argue that to the jury and you're not alleging that --

10 MS. BAKER: I'm alr -- I will be arguing she's
11 lying, yes.

12 THE COURT: Okay. And what do you claim -- are
13 you going to claim is a reason for her lying?

14 MS. BAKER: I -- I -- I don't know what her
15 reason for lying is, your Honor, and I don't --

16 THE COURT: Okay. So you're just gonna say she's
17 lying, I don't know why she's lying? You're not gonna say
18 she didn't want to go back to her dad's or she didn't want
19 to do this or she didn't want to do that; you're just
20 gonna say she's lying and I don't know why.

21 MS. BAKER: Right.

22 THE COURT: Okay. If that's what she's doing,
23 then she's not alleging any recent fabrication or motive
24 to fabricate.

25 MS. JOHNSON: Will objections to such arguments

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1 be sustained in closings?

2 THE COURT: Pardon?

3 MS. JOHNSON: Will objections to such arguments
4 by Counsel be sustained in closing?

5 THE COURT: Oh, if you object to that?

6 MS. JOHNSON: Yes.

7 THE COURT: Well, yeah, because I'm not going to
8 allow her to go into it. Now I want to be clear on the
9 record. You can do that. You can allege a motive to
10 fabricate if you wish. I'm not trying to foreclose you
11 from doing that, but if you're going to do that then it
12 becomes relevant in time when this motive to fabricate
13 arose for me to determine whether or not the statement
14 that is consistent that was made to this witness occurred
15 before or after that motive to fabricate arose. I have to
16 make that determination. But if you're telling me that
17 you don't want to present any motive for fabrication, your
18 only argument to the jury is going to be, I don't know,
19 she decided to lie, well, then if that's the situation,
20 then I'm not -- I'm not going to allow the prosecutor to
21 go into this, so I just want to make sure I understand. I
22 want the record to be clear. I'm not foreclosing your
23 opportunity to allege a motive to fabricate. You have
24 every right to do that.

25 MS. BAKER: Okay.

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1 THE COURT: But if you're saying you're not going
2 to do that, then I'm not going to allow an inquiry into
3 this under 801(D)(2). So is that your position?

4 MS. BAKER: Can I get back with you in the
5 morning?

6 THE COURT: Sure, yep. We'll have the witness
7 come in the morning. So the record is clear, you
8 acknowledge that you have tried to impeach the witness
9 with prior inconsistent statements.

10 MS. BAKER: Yes.

11 THE COURT: About where the mattress was and how
12 big it was and that sort of thing; correct?

13 MS. BAKER: Yes.

14 THE COURT: Okay, all right. So that part we're
15 not dealing with. Okay. Well, you can let us know in the
16 morning what we're going to do with this and we'll return
17 in the morning; okay?

18 MS. BAKER: Thank you.

19 (Court adjourned at 5:47:52.)

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(Videotape, 10-07-14; 10:28:49)

[illegible]

I, certify that this transcript, consisting of 242 pages is a complete, true, and correct transcript of the videotaped proceedings and testimony taken in PEOPLE V RAINBOLT, 14-64458-FC on October 7, 2014, Videotaped.

***Please note proper names and/or case names unknown to this reporter are spelled phonetically and may not be correct.*

Bobbie Springer

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